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### Oneida Business Committee

Executive Session and Regular Meeting 8:30 AM Wednesday, August 12, 2020 BC Conference Room, 2nd floor, Norbert Hill Center

Agenda

Meeting agenda is available here: oneida-nsn.gov/government/business-committee/agendas-packets/. Materials for the "General Tribal Council" section of the agenda, if any, are available to enrolled members of the Oneida Nation; to obtain a copy, visit the BC Support Office, 2nd floor, Norbert Hill Center and present a valid Tribal I.D. or go to https://goo.gl/uLp2jE. Scheduled times are subject to change.

#### NOTICE

All regular, special, and emergency Business Committee meetings are closed to the public for the duration of the Public Health State of Emergency. This is preventative measure as a result of the COVID-19 pandemic. Audio recordings are made of all meetings of the Business Committee. Video recordings are made of regular meetings of the Business Committee. All recordings are available on the Nation's website at: <a href="https://oneida-nsn.gov/government/business-committee/recordings/">https://oneida-nsn.gov/government/business-committee/recordings/</a>

If you have comments regarding open session items, please submit them to <u>TribalSecretary@oneidanation.org</u> no later than close of business the day prior to a Business Committee meeting. Comments will be noticed to the Business Committee.

- I. CALL TO ORDER
- II. OPENING
- III. ADOPT THE AGENDA
- IV. MINUTES
  - A. Approve the July 22, 2020, regular Business Committee meeting minutes Sponsor: Lisa Summers, Secretary
  - B. Approve the August 6, 2020, special Business Committee meeting minutes Sponsor: Lisa Summers, Secretary

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### V. RESOLUTIONS

A. Adopt resolution entitled Setting Supervision and Management of Direct Reports to the Oneida Business Committee

Sponsor: David P. Jordan, Councilman

B. Adopt resolution entitled Amendments to the Boards, Committees, and Commissions Law

Sponsor: David P. Jordan, Councilman

C. Adopt resolution entitled Amended Boards, Committees, and Commissions Law Stipends

Sponsor: David P. Jordan, Councilman

- D. Adopt resolution entitled Emergency Adoption of the Oneida General Welfare Law Sponsor: David P. Jordan, Councilman
- E. Adopt resolution entitled Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law

Sponsor: David P. Jordan, Councilman

F. Adopt resolution entitled Support Submitting the Nation's Disposal of Solid and Hazardous Waste Project Proposal to the Bureau of Indian Affairs

Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs

G. Adopt resolution entitled Continuing Resolution for Fiscal Year 2021

Sponsor: Trish King, Treasurer

### VI. NEW BUSINESS

A. Post two (2) vacancies - Oneida Election Board

Sponsor: Lisa Summers, Secretary

B. Post five (5) vacancies - Oneida Nation School Board

Sponsor: Lisa Summers, Secretary

C. Approve the Community Fund FY-20 Product Request - Oneida Emergency Food Pantry

Sponsor: Debbie Thundercloud, General Manager

D. Approve a limited waiver of sovereign immunity - New Water-Great Lakes
Restoration Initiative Grant Program Silver Creek Adaptive Management Cost-Share
Agreement - file # 2020-0361

Sponsor: Debbie Thundercloud, General Manager

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### VII. GENERAL TRIBAL COUNCIL

#### A. PETITIONER MICHAEL DEBRASKA

1. Accept the legal review

Sponsor: Jo Anne House, Chief Counsel

#### VIII. EXECUTIVE SESSION

#### A. REPORTS

1. Accept the Chief Counsel report

Sponsor: Jo Anne House, Chief Counsel

2. Accept the Gaming General Manager FY-20 3rd quarter report (9:30 a.m.)

Sponsor: Louise Cornelius, Gaming General Manager

3. Accept the Retail General Manager FY-20 3rd quarter report (10:00 a.m.)

Sponsor: Eric McLester, Retail General Manager

4. Accept the Emergency Management Director FY-20 3rd quarter report (10:15

a.m.)

Sponsor: Kaylynn Gresham, Director/Emergency Management

#### B. TABLED BUSINESS

1. Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution (tabled 4/8/20; no action requested)

### C. NEW BUSINESS

1. Approve a limited waiver of sovereign immunity - National Investment Services of America LLC Investment Management agreement - file # 2020-0401 (10:30 a.m.)

Sponsor: Debbie Danforth, Chair/Oneida Trust Enrollment Committee

2. Approve a limited waiver of sovereign immunity - Merganser Capital Management LLC Advisory Agreement - file # 2020-0415 (10:30 a.m.)

Sponsor: Debbie Danforth, Chair/Oneida Trust Enrollment Committee

3. Approve the Gaming Arts LLC Consent and Coexistence Agreement - file # 2020-0528

Sponsor: Jo Anne House, Chief Counsel

4. Review the recall request and determine next steps - Oneida Police Department (10:45 a.m.)

Sponsor: Sandra Reveles, Chair/Oneida Police Commission

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5. Review the recall request and determine next steps - Human Resources (11:00 a.m.)

Sponsor: Geraldine Danforth, Area Manager/Human Resources

6. Review the recall request and determine next steps - Intergovernmental Affairs and Communications

Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs

7. Review the posting request and determine next steps - Business Committee Support Office

Sponsor: Lisa Summers, Secretary

8. Review submissions for the State of Wisconsin 2021-23 Biennial Budget Request (11:15 a.m.)

Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs

9. Approve a sub-team of the OBC to meet with BC DR10 to renegotiate and approve the employment contract

Sponsor: Tehassi Hill, Chairman

10. Approve a sub-team of the OBC to meet with BC DR04 to renegotiate and approve their employment contract

Sponsor: Tehassi Hill, Chairman

#### IX. ADJOURN

Posted on the Oneida Nation's official website, www.oneida-nsn.gov pursuant to the Open Records and Open Meetings law (§ 107.14.)

The meeting packet of the open session materials for this meeting is available by going to the Oneida Nation's official website at: oneida-nsn.gov/government/business-committee/agendas-packets/

For information about this meeting, please call the Business Committee Support Office at (920) 869-4364 or (800) 236-2214

# **Business Committee Agenda Request**

1.	Meeting Date Requested:	08/10/20	
2.	General Information: Session:   ☐ Open		must qualify under §107.4-1.
3.	Supporting Documents:  Contract Document(s) Correspondence Fiscal Impact Statement Other: Describe	Minutes	☐ Resolution ☐ Statement of Effect ☐ Travel Documents
4.	Budget Information:  Budgeted  Not Applicable	☐ Budgeted – Grant I☐ Other: <i>Describe</i>	Funded Unbudgeted
5.	Submission:		
	Authorized Sponsor:	Lisa Summers, Secreta	ry
	Primary Requestor:		
	Additional Requestor:	(Name, Title/Entity)	
	Additional Requestor:	(Name, Title/Entity)	
	Submitted By:	LLIGGINS	



### Oneida Business Committee

Executive Session and Regular Meeting 8:30 AM Wednesday, July 22, 2020 BC Conference Room, 2nd floor, Norbert Hill Center

#### **Minutes**

### **EXECUTIVE SESSION**

**Present:** Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster:

Not Present: n/a
Arrived at: n/a

Others present: Jo Anne House, Larry Barton, Debbie Thundercloud, Lisa Liggins, Louise Cornelius (via Microsoft Teams<sup>1</sup>), Chad Fuss (via Microsoft Teams), Fawne Rasmussen (via Microsoft Teams), Sharon Mousseau (via Microsoft Teams), Artley Skenandore (via Microsoft Teams), Yvette Peguero (via Microsoft Teams), Linda Jenkins (via Microsoft Teams), Melinda J. Danforth, Tana Aguirre (via Microsoft Teams), Brandon Wisneski (via Microsoft Teams), Tina Jorgenson (via Microsoft Teams), Susan House (via Microsoft Teams), Carl Artman (via Microsoft Teams);

#### **REGULAR MEETING**

**Present:** Chairman Tehassi Hill, Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council members: Daniel Guzman King, David P. Jordan, Kirby Metoxen, Ernie Stevens III, Jennifer Webster:

Not Present: n/a
Arrived at: n/a

**Others present:** Jo Anne House, Larry Barton, Debbie Thundercloud, Lisa Liggins, Clorissa Santiago, Tina Jorgenson (via Microsoft Teams), Michelle Myers (via Microsoft Teams);

### I. CALL TO ORDER

Meeting called to order by Chairman Tehassi Hill at 8:31 a.m.

-

<sup>&</sup>lt;sup>1</sup> Microsoft Teams is software which provides a communication and collaboration platform for workplace chat, file sharing, and video meetings

### II. OPENING (00:00:19)

Opening provided by Chairman Tehassi Hill.

### A. Special Recognition for Years of Service (00:03:53)

Sponsor: Tehassi Hill, Chairman

Special recognition by Chairman Tehassi Hill of the following employees for their years of service and commitment to the Oneida Nation: Geraldine Danforth (35 years), Kirby Metoxen (30 years), Annette Cornelius (30 years), Robert Brown (30 years), Ronald Cornelius Jr (25 years), David Larson (25 years), Lisa Summers (25 years), Heidi King (25 years), Michael Troge (25 years), Karen John (25 years), Michael Arce (25 years), Jeri Bauman (25 years), Anne Delebreau (25 years), Jeffrey Scofield (25 years), Lyle Hill (25 years), and Kevin Jorgenson (25 years).

A quarterly recognition for years of service would have been held in April 2020, but was not due to the COVID-19 pandemic.

### **III.** ADOPT THE AGENDA (00:07:10)

Motion by Lisa Summers to adopt the agenda with two (2) changes [1) under Oath of Office, add item A. Oneida Election Board Alternates; and 2) under Executive Session, delete item C.3. Approve five (5) job descriptions for the re-organization of the OBC Support staff to Politically Appointed Contract Positions], seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

### IV. OATH OF OFFICE

### A. Oneida Election Board Alternates (00:08:28); (00:34:48)

Item was deferred to be address later on the agenda. Item V.A. was addressed next.

Councilman Kirby Metoxen left at 10:05 a.m.

Oath of office administered by Secretary Lisa Summers. Kathryn LaRoque (via Microsoft Teams) and Ramona Salinas (via Microsoft Teams) were present.

Item IX. Executive Session was re-addressed next.

#### V. MINUTES

A. Approve the July 8, 2020, regular Business Committee meeting minutes (00:09:03) Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to approve the July 8, 2020, regular Business Committee meeting minutes, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

### VI. RESOLUTIONS

A. Adopt resolution entitled Extension of the Real Property Law Emergency Amendments (00:09:24)

Sponsor: David P. Jordan, Councilman

Motion by David P. Jordan to adopt resolution 07-21-20-A Extension of the Real Property Law Emergency Amendments, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Motion by Lisa Summers to direct the General Manager to ensure that there is an action plan to make sure the appropriate procedures are developed in the timeframe allowed by the resolution, seconded by Ernie Stevens III. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

B. Adopt resolution entitled Amendment to resolution # BC 12-11-19-A for the Nation's Appointed Representative on the Board for the Greater Green Bay Chamber of Commerce (00:14:39)

Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs

Motion by Lisa Summers to adopt resolution 07-21-20-B Amendment to resolution # BC 12-11-19-A for the Nation's Appointed Representative on the Board for the Greater Green Bay Chamber of Commerce, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

#### VII. APPOINTMENTS

A. Determine next steps regarding one (1) vacancy - Oneida Police Commission (00:15:13); (00:32:40); (00:48:15)

Sponsor: Lisa Summers, Secretary

Item deferred to be addressed later on the agenda. Item VII.A. was addressed next.

Motion by Jennifer Webster to accept the selected applicant Beverly Anderson, seconded by Trish King. Motion withdrawn.

Item IV.A. was addressed next.

Motion by David P. Jordan to appoint Beverly Anderson to the Oneida Police Commission, seconded by Trish King. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Item X. was addressed next.

B. Determine next steps regarding three (3) vacancies - Oneida Election Board Alternates (00:15:38); (00:31:33)

Sponsor: Lisa Summers, Secretary

Item deferred to be addressed later on the agenda. Item VIII.A. was addressed next.

Councilman David P. Jordan returned at 10:00 a.m.

Motion by Lisa Summers to appoint Ramona Salinas to the Oneida Election Board as an alternate, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Item VII.A. was re-addressed next.

#### VIII. NEW BUSINESS

A. Appoint Michelle Myers, Public Health Officer, to represent the Oneida Nation on the State Disaster Medical Advisory Committee's Ethics Subcommittee (00:16:05)

Sponsor: Debbie Thundercloud, General Manager

Motion by Jennifer Webster to appoint Michelle Myers, Public Health Officer, to represent the Oneida Nation on the State Disaster Medical Advisory Committee's Ethics Subcommittee, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

B. Review request for permanent amendments to the Children's Code and determine next steps (00:16:38)

Sponsor: Debbie Thundercloud, General Manager

Motion by Jennifer Webster to accept the request for permanent amendments to the Children's Code as information and send to the Legislative Operating Committee for processing, seconded by Lisa Summers. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

C. Re-post four (4) vacancies - Anna John Resident Centered Care Community Board (00:23:42)

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to re-post four (4) vacancies for the Anna John Resident Centered Care Community Board, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

D. Enter the e-poll results into the record - Failed CRF Government Relief Funds Requests - file # 7-6-026 and file # 6-5-067 (00:24:11)

Sponsor: Lisa Summers, Secretary

Motion by Lisa Summers to enter the e-poll results into the record for the failed CRF Government Relief Funds Requests - file # 7-6-026 and file # 6-5-067, seconded by David P. Jordan. Motion carried:

Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

For the record: Secretary Lisa Summers stated the reason for the failure isn't because the Business Committee didn't support the requests, generally; it was because we just weren't able to get enough responses in time for the processing deadline. I want to make sure everyone understands that who might be watching and is questioning why we would reconsider. It's a processing thing that occurred in this particular case; that's why it's up for reconsideration next.

For the record: Councilman Kirby Metoxen stated I know we're working our some glitches within our laptops. There are times when you reply on [e-polls] and it returns to the person e-polling as failed or undeliverable. So we are working with MIS to rectify that.

> 1. Reconsider the CRF Government Relief Funds Requests - file # 7-6-026 and file # 6-5-067 (00:26:35)

Sponsor: Debbie Thundercloud, General Manager

Motion by Lisa Summers to reconsider the CRF Government Relief Funds Requests - file # 7-6-026 and file # 6-5-067, seconded by Jennifer Webster. Motion carried:

> Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Aves: Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

For the record: Secretary Lisa Summers stated I would just for, again for public purposes, just to note that this particular request is regarding laptops for the Licensing area in the amount of \$30,000 and the other area is specific to the suspension of the rents and utilities that were done by the Business Committee earlier in the year and that total amount is \$613,578.

For the record: Councilman Kirby Metoxen I had voted on this but it was one of those times where it was deleted or it was undeliverable and so it came back to me and I had to re-vote on my phone which came in late then.

Motion by Kirby Metoxen to approve the CRF Government Relief Funds Requests - file #7-6-026 and file # 6-5-067, seconded by Lisa Summers. Motion carried:

> Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Aves:

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

### IX. EXECUTIVE SESSION (00:30:06); (00:39:04)

Motion by Kirby Metoxen to go into executive session at 9:01 a.m., seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Roll call for the record:

Present: Councilman Daniel Guzman King; Chairman Tehassi Hill; Treasurer Trish King; Councilman Kirby Metoxen; Vice-Chairman Brandon Stevens; Councilman Ernie Stevens III;

Secretary Lisa Summers; Councilwoman Jennifer Webster;

Not Present: Councilman David P. Jordan;

Motion by Trish King to come out of executive session at 9:58 a.m., seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, Trish King, Kirby Metoxen, Brandon Stevens,

Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: David P. Jordan

Item IX.C.10. was addressed next.

Motion by Trish King to go into executive session at 10:07 a.m., seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Brandon Stevens,

Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: Kirby Metoxen

Roll call for the record:

Present: Chairman Tehassi Hill; Councilman David P. Jordan; Councilman Kirby Metoxen; Treasurer Trish King; Vice-Chairman Brandon Stevens; Councilman Ernie Stevens III; Secretary Lisa Summers; Councilwoman Jennifer Webster;

Not Present: Councilman Daniel Guzman King:

Motion by Brandon Stevens to come out of executive session at 3:56 p.m., seconded by Ernie Stevens III. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie

Stevens III, Lisa Summers, Jennifer Webster

Not Present: Daniel Guzman King

#### A. REPORTS

1. Accept the Intergovernmental Affairs, Communications, and Self-Governance July 2020 report (00:40:37)

Sponsor: Melinda J. Danforth, Director/Intergovernmental Affairs

Motion by David P. Jordan to accept the Intergovernmental Affairs, Communications, and Self-Governance July 2020 report, seconded by Jennifer Webster. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie

Stevens III, Lisa Summers, Jennifer Webster

Not Present: Daniel Guzman King

Motion by David P. Jordan to support the concept of working with the City of Green Bay on an early voting location for the Fall 2020 Elections and direct Intergovernmental Affairs and Communications to develop a Memorandum of Understanding with the City, seconded by Brandon Stevens. Motion carried:

Ayes: David P. Jordan, Trish King, Brandon Stevens, Ernie Stevens III, Lisa

Summers, Jennifer Webster

Opposed: Kirby Metoxen
Not Present: Daniel Guzman King

2. Accept the Chief Counsel report (00:41:26)

Sponsor: Jo Anne House, Chief Counsel

Motion by Kirby Metoxen to accept the Chief Counsel report, seconded by Lisa Summers. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie

Stevens III, Lisa Summers, Jennifer Webster

Not Present: Daniel Guzman King

Motion by Kirby Metoxen to approve the CRF Government Relief Funds Request for General Assistance for Membership in the amount of \$14,388,000 - file # 7-5-001 and file # 7-5-005, seconded by Trish King. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie

Stevens III, Lisa Summers, Jennifer Webster

Not Present: Daniel Guzman King

### **B. TABLED BUSINESS**

1. Joint Marketing Standard Operating Procedures regarding Tickets & Merchandise Distribution (tabled 4/8/20; no action requested)

No action; item remains on the table.

#### C. NEW BUSINESS

1. Approve the Principal Financial Group documents regarding the Oneida Nation Public Safety Officer Pension Plan - file # 2020-0482 (00:42:12)

Sponsor: Larry Barton, Chief Financial Officer

Motion by Trish King to approve the Principal Financial Group documents regarding the Oneida Nation Public Safety Officer Pension Plan - file # 2020-0482, seconded by David P. Jordan. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie

Stevens III, Lisa Summers, Jennifer Webster

Not Present: Daniel Guzman King

Councilman Daniel Guzman King returned at 3:59 p.m.

2. Approve the Principal Financial Group documents regarding the Oneida Nation Public Safety Officer Excess Benefit Payment Plan - file # 2020-0483 (00:42:02) Sponsor: Larry Barton, Chief Financial Officer

Motion by Jennifer Webster to approve the Principal Financial Group documents regarding the Oneida Nation Public Safety Officer Excess Benefit Payment Plan - file # 2020-0483, seconded by Trish King. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

3. Approve five (5) job descriptions for the re-organization of the OBC Support staff to Politically Appointed Contract Positions

Sponsor: Lisa Summers, Secretary

Item deleted at the adoption of the agenda.

4. Review the recall request and determine next steps - Purchasing and Licensing (00:42:59)

Sponsor: Larry Barton, Chief Financial Officer

For the record: Secretary Lisa Summers stated for these next [two] requests, I'm opposing them because I believe that before we do any additional recalls, we need to see a broader financial picture for the Nation.

Motion by Jennifer Webster to approve the recall request from Licensing for one (1) Licensing Assistant, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Jennifer Webster

Opposed: Lisa Summers

5. Review the recall request and determine next steps - Gaming (00:43:42)

Sponsor: Louise Cornelius, Gaming General Manager

Motion by Kirby Metoxen to approve the recall request from Gaming for one (1) Table Games Administrative Assistant, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Jennifer Webster

Opposed: Lisa Summers

6. Review the posting request and determine next steps - Oneida Law Office (00:44:05)

Sponsor: Jo Anne House, Chief Counsel

Motion by Kirby Metoxen to approve the posting request from the Oneida Law Office for one (1) Attorney, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

7. Review the posting request and determine next steps - Oneida Nation School System (00:44:28)

Sponsor: Lisa Liggins, Chair/Oneida Nation School Board

Motion by Jennifer Webster to approve the posting request from the Oneida Nation School System for two (2) Health Aides and one (1) Co-teacher, seconded by Brandon Stevens. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

For the record: Secretary Lisa Summers stated these requests for the School are directly [COVID-19 pandemic] related and support [COVID-19 pandemic response] activities.

8. Approve designating Tribal Contribution to fund the Oneida Nation School System for SY2020-2021 (00:45:04)

Sponsor: Lisa Liggins, Chair/Oneida Nation School Board

Motion by Lisa Summers to approve designating Tribal Contribution to fund the Oneida Nation School System for SY2020-2021, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

9. Review application(s) for one (1) vacancy - Oneida Police Commission (00:45:29)

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to accept the discussion regarding the Oneida Police Commission application as information, seconded by Kirby Metoxen. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Item IX.C.11. was addressed next.

10. Review application(s) for three (3) vacancies - Oneida Election Board Alternates (00:30:53)

Sponsor: Lisa Summers, Secretary

Motion by Lisa Summers to accept the discussion regarding the Oneida Election Board Alternate applications as information, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, Trish King, Kirby Metoxen, Brandon Stevens,

Ernie Stevens III, Lisa Summers, Jennifer Webster

Not Present: David P. Jordan

Item VII.B. was addressed next.

11. Enter the e-poll results in the record - Approved employment request from Gaming to maintain the optimal staffing levels highlighted in the report dated July 14, 2020 (00:46:04)

Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to enter the e-poll results into the record for the approved employment request from Gaming to maintain the optimal staffing levels highlighted in the report dated July 14, 2020, seconded by David P. Jordan. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

12. Enter the e-poll results into the record - Approved employment requests from the General Manager for recall of 25 positions, posting of 7 positions, and posting of future vacancies current/recalled/posted positions in the Comprehensive Health Division (00:46:40)

Sponsor: Lisa Summers, Secretary

Motion by Brandon Stevens to enter the e-poll results into the record for the approved employment requests from the General Manager for recall of 25 positions, posting of 7 positions, and posting of future vacancies current/recalled/posted positions in the Comprehensive Health Division, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

13. Enter the e-poll results into the record - Approved recall request from Human Resources for two (2) Organizational Development Specialists and one (1) Executive Assistant (00:47:15)

Sponsor: Lisa Summers, Secretary

Motion by David P. Jordan to enter the e-poll results into the record for the approved recall request from Human Resources for two (2) Organizational Development Specialists and one (1) Executive Assistant, seconded by Jennifer Webster. Motion carried:

Ayes: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

14. Enter the e-poll results into the record - Approved recall request from Internal Audit for one (1) In-Charge Auditor (00:47:41)

Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to enter the e-poll results into the record for the approved recall request from Internal Audit for one (1) In-Charge Auditor, seconded by Kirby Metoxen. Motion carried:

Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Ayes:

Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster

Item VII.A. was re-addressed.

#### X. **ADJOURN (00:48:42)**

Motion by David P. Jordan to adjourn at 4:05 p.m., seconded by Ernie Stevens III. Motion carried: Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen, Ayes: Brandon Stevens, Ernie Stevens III, Lisa Summers, Jennifer Webster



Minutes prepared by Lisa Liggins,	Information Management Specialist
Minutes approved as presented or	1 .

Lisa Summers, Secretary ONEIDA BUSINESS COMMITTEE Public Packet 17 of 178

Approve the August 6, 2020, special Business Committee meeting minutes

# **Business Committee Agenda Request**

1.	Meeting Date Requested:	08/10/20	
2.	General Information: Session:   ☐ Open		must qualify under §107.4-1.
3.	Supporting Documents:  Contract Document(s) Correspondence Fiscal Impact Statement Other: Describe	Minutes	☐ Resolution ☐ Statement of Effect ☐ Travel Documents
4.	Budget Information:  Budgeted  Not Applicable	☐ Budgeted – Grant I☐ Other: <i>Describe</i>	Funded Unbudgeted
5.	Submission:		
	Authorized Sponsor:	Lisa Summers, Secreta	ry
	Primary Requestor:		
	Additional Requestor:	(Name, Title/Entity)	
	Additional Requestor:	(Name, Title/Entity)	
	Submitted By:	LLIGGINS	



### Oneida Business Committee

Special Meeting 10:00 AM Thursday, August 06, 2020 BC Conference Room, 2nd floor, Norbert Hill Center

### **Minutes**

SPECIAL MEETING

Present: Vice-Chairman Brandon Stevens, Treasurer Trish King, Secretary Lisa Summers, Council

members: David P. Jordan, Kirby Metoxen;

Not Present: Chairman Tehassi Hill, Council members: Daniel Guzman King, Ernie Stevens III, Jennifer

Webster;

Arrived at: n/a

**Others present:** Jo Anne House (via Microsoft Teams), Larry Barton, Debbie Thundercloud (via Microsoft Teams), Melinda J. Danforth (via Microsoft Teams), Lisa Liggins, James Bittorf (via Microsoft

Teams), Arlinda Locklear (via Microsoft Teams);

### I. CALL TO ORDER

Meeting called to order by Vice-Chairman Brandon Stevens at 10:04 a.m.

For the record: Chairman Tehassi Hill and Council members Daniel Guzman King, Ernie Stevens III, and Jennifer Webster are on vacation or personal time.

### II. OPENING (00:00:18)

Opening provided by Councilman Kirby Metoxen.

### III. ADOPT THE AGENDA (00:00:43)

Motion by Trish King to adopt the agenda as presented, seconded by David P. Jordan. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers

Not Present: Daniel Guzman King, Tehassi Hill, Ernie Stevens III, Jennifer Webster

#### IV. RESOLUTIONS

A. Adopt resolution entitled Extension of Declaration of Public Health State of Emergency Until September 11, 2020 (00:01:07)

Sponsor: Tehassi Hill, Chairman

Motion by Lisa Summers to adopt resolution 08-06-20-A Extension of Declaration of Public Health State of Emergency Until September 11, 2020, seconded by Trish King. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers

Not Present: Daniel Guzman King, Tehassi Hill, Ernie Stevens III, Jennifer Webster

For the record: Secretary Lisa Summers stated we did receive an updated report from our Public Health Official team and they noted several things that are continuing to occur on the reservation including that our numbers are steadily increasing at this point. They did include in their report the comparison between the confirmed cases on the reservation and the over all Native American numbers. Our numbers are significantly higher if you include those individuals who are not on the reservation, who are in Brown or Outagamie county off the reservation. Ie had this morning as of today's date I believe 85 cases, which is a 30 person increase over where we were just a few weeks ago. So for myself, I just want to make sure that people do take the time to look at the packet and read the report because we are continuing to base our decisions on the science and the information coming from our Public Health Officials.

### V. EXECUTIVE SESSION (00:05:48)

Motion by David P. Jordan to go into executive session at 10:10 a.m., seconded by Kirby Metoxen. Motion carried:

Aves: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers

Not Present: Daniel Guzman King, Tehassi Hill, Ernie Stevens III, Jennifer Webster

Motion by Lisa Summers to come out of executive session at 11:07 a.m., seconded by David P. Jordan. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers

Not Present: Daniel Guzman King, Tehassi Hill, Ernie Stevens III, Jennifer Webster

#### A. NEW BUSINESS

1. Review the decision and identify next steps - case # 19-1981 (00:06:18)
Sponsor: Jo Anne House, Chief Counsel

Motion by Trish King to accept the the discussion regarding case # 19-1981 as information, seconded by Kirby Metoxen. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers

Not Present: Daniel Guzman King, Tehassi Hill, Ernie Stevens III, Jennifer Webster

### VI. ADJOURN (00:06:36)

Motion by Lisa Summers to adjourn at 11:07 a.m., seconded by David P. Jordan. Motion carried:

Ayes: David P. Jordan, Trish King, Kirby Metoxen, Lisa Summers

Not Present: Daniel Guzman King, Tehassi Hill, Ernie Stevens III, Jennifer Webster

Minutes prepared by Lisa Liggins, Information Management Specialist Minutes approved as presented on \_\_\_\_\_\_.

Lisa Summers, Secretary
ONEIDA BUSINESS COMMITTEE

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# **Oneida Business Committee Agenda Request**

Adopt resolution entitled Setting Supervision and Management of Direct Reports to the Oneida Business.

1. Meeting Date Requested: 8 / 12 / 20	
2. General Information:  Session:   Open   Executive - See instructions for the applicable laws, then choose one:	
Agenda Header: Resolutions	
<ul> <li>□ Accept as Information only</li> <li>☑ Action - please describe:</li> <li>To approve the amended BC Resolution "Setting Supervision and Management of the Direct Reports to</li> </ul>	the
Business Committee"	
3. Supporting Materials  ☐ Report ☑ Resolution ☐ Contract ☑ Other:	
1	
2. 4.	
☐ Business Committee signature required	
4. Budget Information  ☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted	
5. Submission	
Authorized Sponsor / Liaison: David P. Jordan, Councilmember	
Primary Requestor/Submitter: Jessica Wallenfang, Executive Assistant  Your Name, Title / Dept. or Tribal Member	
Additional Requestor:  Name, Title / Dept.	
Additional Requestor:  Name, Title / Dept.  Name, Title / Dept.	

### **Oneida Business Committee Agenda Request**

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

Purpose: To ensure the resolution is consistent with the OBC SOP: Hiring, Negotiating and Termination of BC Support Contracted Employees. Background/history: Due to the re-organization of the OBC Political Appointments to Contracted employees, the resolution must be updated to include the re-titled positions. In addition, the resolution now includes the Legislative Reference Office BC Liaison as a member to the OBC Officers for administrative purposes. This change will allow the BC Liaison to be included in the BC Officer meetings for more consistent communication to the Legislative Operating Committee and to expand the amount of BC Officers to assist in reaching quorum. Action: To approve the amended BC Resolution, ""Setting Supervision and Management of the Direct Reports to the Business Committee".

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

# **Oneida Nation**

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

BC Resolution # Setting Supervision and Management of Direct Reports to the Oneida Business Committee		
WHEREAS,	the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and	
WHEREAS,	the Oneida General Tribal Council is the governing body of the Oneida Nation; and	
WHEREAS,	the Oneida Business Committee has been delegated the authority of Article IV, Section 1 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and	
WHEREAS,	the Oneida Business Committee has re-instated the position of General Manager to provide guidance and stability to the Nation's governmental units assigned to report to the position; and	
WHEREAS,	the Oneida Business Committee has determined that some positions, such as the Chie Financial Officer, are not direct reports to the Oneida Business Committee but have interactions with and impacts on governmental units; and	
WHEREAS,	the Oneida Business Committee has also determined that some positions, such as the Gaming General Manager, Emergency Management, and Human Resources Department require direct contact and supervision by the Oneida Business Committee because of the position (Gaming General Manager), the duties (governmental response), or services provided (personnel); and	
WHEREAS,	the E. Delgado Oneida Business Committee adopted resolutions clarifying the impact o interim actions addressing the removal of the position of the General Manager; and	
WHEREAS,	the T. Danforth Oneida Business Committee adopted clarifying resolutions regarding supervision and management of direct reports; and	
WHEREAS,	the Oneida Business Committee has determined that these resolutions provided clea guidance to direct reports and should be updated reflecting hiring a General Manager; and	
WHEREAS,	the Oneida Business Committee re-affirms resolution # BC-01-14-09-D, <i>Definition of Oversight</i> ; and	
resolutions in o	FORE BE IT RESOLVED, that this resolution shall supersede all prior motions and conflict with the directives set forth in this resolution and in resolution #	
the General M	r Resolutions Regarding Direct Reporting and Assigning Responsibilities and Authorities of lanager.	

Chief Counsel, job description #-09030
General Manager, job description #-09012
Gaming General Manager, job description #09020 45 46

BC Resolution

Setting Supervision and Management of Direct Reports to the Oneida Business Committee
Page 2 of 2

AreaGeneral Manager - - Retail-Profit, job description #09096 Business Compliance Analyst, job description #3029 Intergovernmental Affairs and Communications Director, job description #02735 Emergency Management Director, job description #09072 Area Manager, Human Resources Division, job description #00662 Area Manager, Retail-Profit, job description #Employee Relations, job description # 03104 Strategic Planner, job description # 03106 Project Manager, job description # 03111 Project Coordinator, job description # 03104 Budget Analyst, job description # 03103 Executive Assistant, job description # 01305

**BE IT FURTHER RESOLVED,** that the Oneida Business Committee delegates to the officers (Chair, Vice-Chair, Treasurer, and Secretary, and Legislative Operating Committee Chair) the authority and responsibility of administrative supervision of direct reports.

- Administrative supervision shall be defined as matters involving the individual personnel requests such as use of personal or vacation time, performance tracking and accounting related sign-off activities.
- 2. Administrative supervision requests shall be routed through the Tribal Secretary's Office which shall be responsible for logging in requests and documenting the results of the officer decisions.

**BE IT FURTHER RESOLVED**, that the Oneida Business Committee delegates to the officers (Chair, Vice-Chair, Treasurer, and Secretary, and Legislative Operating Committee Chair) the authority and responsibility of providing direction to direct reports regarding organizational activities. Direction regarding organizational activities shall be defined as providing advice and opinion regarding the policy decisions made by the Oneida Business Committee and shall exclude the authority to direct specific action.

**BE IT FURTHER RESOLVED,** that the Oneida Business Committee delegation to the officers (Chair, Vice-Chair, Treasurer, Secretary, and Legislative Operating Committee Chair) includes the expectation that the officers will act by majority vote and, in all cases, to attempt consensus decision making as agreed to from the initial strategic planning activities.

**BE IT FURTHER RESOLVED**, that the Oneida Business Committee directs the Secretary to forward this resolution to the Human Resources Department to identify the necessary amendments to the administrative processes and procedures to fully implement this resolution in a timely manner.

BE IT FINALLY RESOLVED, that this resolution shall be effective upon adoption.

ONEIDA ONEIDA NATION STANDARD OPERATING PROCEDURE	TITLE: Hiring, Negotiating and Termination of BC Support Contracted Employees	ORIGINATION DATE: July 2006 REVISION DATE: April 3, 2020 June 29, 2020 EFFECTIVE DATE: End of Transition 2020
DIVISION: Non-Divisional	APPROVED BY: OBC by motion 7-8-20	DATE: 7-21-20
DEPARTMENT: Oneida Business Committee	COMPLIANCE REVIEW BY: EEO Director	DATE:
AUTHOR: Paula King-Dessart/ Jessica Wallenfang	APPROVED BY: Human Resources Department (HRD) Manager	DATE: 7/23/20
EEO Reference #: 70	PAGE NO: 1 of 5	

### 1.0 PURPOSE

1.1 To set standards for the hiring and termination processes of Politically Appointed Employees who are contracted and provide support to the Oneida Business Committee Members.

### 2.0 DEFINITIONS

- 2.1 HR Representative: HRD employee responsible for job description development, posting and hiring processes.
- **Job Descriptions:** A document defining duties and responsibilities for a position.
- **2.3 Contracted Employee:** The employee's status while working for the Oneida Business Committee that is employed by a contract.
- **2.4** LOC: Legislative Operating Committee, which consists of the five (5) Councilmembers.
- 2.5 LRO: Legislative Reference Office
- 2.6 OBC: Oneida Business Committee member(s)

### 3.0 WORK STANDARDS

- 3.1 The OBC directly oversees the work and performance of all Contracted Employees, all of whom are considered a team of work professionals, to support essential operations of the government.
- 3.2 The OBC Officers are the acting supervisors for administrative duties, such as; approving time and attendance requests.

- **3.3** Contracted Employees are hired to support the OBC during their term in office.
- 3.4 Contracted Employees may start once their contract has been approved by the Law Office, HRD, and signed by the OBC.
- 3.5 Contracts may exceed the length of the OBC term to October 1<sup>st</sup> of the election year to assist in the transition of the new OBC.

### **Hiring/ Posting Process**

- 3.6 A Hiring Team consisting of a minimum of three (3) OBC members will participate in the hiring process for each vacant position.
  - 3.6.1 The Hiring Team includes voluntary or assigned OBC members.
  - **3.6.2** The hiring process is facilitated by the Employee Relations representative for the OBC in collaboration with HRD.
- 3.7 The OBC may hire a maximum of seven (7) Contracted Employees to work essential services for the government.
  - **3.7.1** The following positions may be hired according to Resolution #08-14-19-N.

3.7.1.1	Executive Assistant – 2
3.7.1.2	Strategic Planner - 1
3.7.1.3	Employee Relations – 1
3.7.1.4	Budget Analyst – 1
3.7.1.5	Project Coordinators
3.7.1.6	Project Manager

- 3.8 All newly created and/or revised job descriptions must be approved by the OBC and documented through OBC minutes.
- 3.9 Hiring Contracted Employees requires prior approval by OBC action.
- **3.10** OBC Members can agree by consensus or majority when hiring the Contracted Employees.
- 3.11 There are two (2) options to hire a Contracted Employee:3.11.1 Choose a qualified applicant approved by the OBC; or3.11.2 Use the Nation's hiring process by contacting the HR Representative.
- **3.12** HRD will facilitate the hiring process to include informal interviews, testing, background checks and scheduling for orientation.

### Salary and Requirements

- 3.13 The OBC and Hiring Team must ensure adequate funds are available within the OBC's budget prior to negotiations, or salary or wage adjustments.
- 3.14 The negotiated salary must be within the approved allocated amount in the annual budget and cannot exceed the determined grade.
- 3.15 Contracted Employees must meet the minimum qualifications and

requirements of the appropriate job description to negotiate wages.

- **3.15.1** If an applicant does not meet the minimum qualifications and requirements of the job, he or she cannot be contracted to the desired position.
  - 3.15.1.1 An applicant's failure to pass the pre-employment drug and alcohol test and/or background check shall automatically disqualify the applicant.
- 3.15.2 Contracted Employees are eligible for compensation increases, such as; salary or wage adjustments and bonuses in accordance with all HR procedures, annual budget allowances and in the contract.

### Transfers/Reassignments

3.16 Contracted Employees are eligible for transfers, promotions and job reassignments after one year of continuous service in the department.
3.16.1 Contract status changes will be processed in the same manner as regular status employees.

### **Termination of Appointment**

**3.17** The Contracted Employee may be terminated under the terms of their contract.

### **PROCEDURES**

### Selecting a Contracted Employee - By Posting

#### **Employee Relations**

- 3.18 Complete and obtain approval on all HR required forms related to hiring and send to the HR Representative.
- 3.19 Facilitate the hiring process, which includes:
  - 3.19.1 Develop and/or prepare interview questions.
  - 3.19.2 Schedule Screening
  - 3.19.3 Schedule interviews/ 2nd interviews
  - 3.19.4 Process appropriate paperwork with HRD
  - 3.19.5 Prepare contract and obtain approvals
  - 3.19.6 Prepare and schedule Expectations
- 3.20 Coordinate with the OBC Support Office Executive Assistant to ensure proper documents, procedures, and options are completed and the available funds are within the approved budget.
- 3.21 When agreeing upon negotiations, consider other Contracted Employee wages to ensure wage equity.

### HR Representative

- 3.22 Post the job description for a minimum of seven (7) calendar days.
- **3.23** Complete all applicable verifications and testing as the applications are received.
- 3.24 Notify the Employee Relations representative within (2) two days after the position has closed of any applicants who have applied.
- 3.25 Ask the Hiring Team if the Table of Equivalencies will be utilized.3.25.1 If yes, add the criteria to the appropriate form.
- 3.26 Determine if applicants meet the qualifications and requirements.
- 3.27 Schedule and facilitate Screening Process.
- 3.28 Create and/or review interview questions.
- **3.29** Schedule and confirm interview date and time with applicants and Employee Relations representative.
- 3.30 Contact the selected applicant and offer or negotiate a wage or salary.
- 3.31 If applicant declines, notify the Employee Relations representative
- **3.32** Allow the Hiring Team to choose another applicant.
- 3.33 If applicant accepts, contact the Employee Relations representative regarding the applicant's acceptance of the position with or without conditions and a start date.
- **3.34** Schedule and notify Contracted Employees of mandatory paperwork and processes for hire.

### Terminating a Contracted Employee

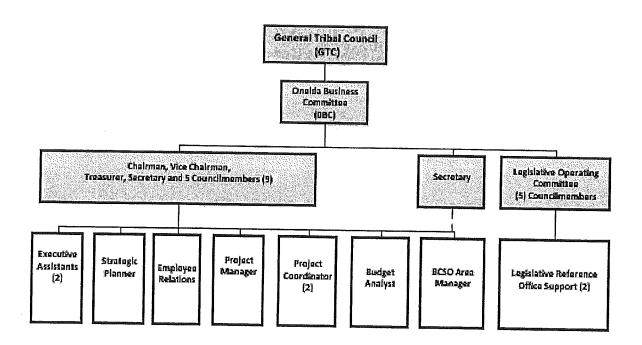
- 3.35 In accordance with the contract, the OBC Support Office Executive Assistant/ Employee Relations employee will process all paperwork terminating the Contracted Employee and forward to appropriate departments per the BC SOP Restricting Access to Employees on Leave or Separation of Employment #506.
- **3.36** Written notice must be sent to the employee and HRD stating the following:
  - **3.36.1** Purpose for termination, such as; contract expires, position no longer needed, etc.
  - 3.36.2 Date of termination

### 4.0 REFERENCES

- **4.1** Request to Post Form (HRD)
- **4.2** Employment Screening Form (HRD)
- 4.3 Table of Equivalencies (HRD)
- **4.4** Employee Separation Checklist (HRD)
- 4.5 Request for Services (RFS at MIS)

- 4.6 Resolution# 08-14-19-N
- **4.7** BC SOP Restricting Access to Employees on Leave or Separation of Employment #506

### 5.0 FLOWCHART



वस्तामक हैदीरापूर्व हेन्सक्त हैरारिहरूसस्यक

3. Approve the BC Political Appointment Re-organization to Contracted Employees (00:46:21)

Sponsor: Lisa Summers, Secretary

Motion by Jennifer Webster to approve the five (5) employment contracts and job descriptions, seconded by Lisa Summers. Motion carried:

Ayes:

Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present:

Ernie Stevens III

Motion by Jennifer Webster to approve the OBC SOP: Hiring, Negotiating and Termination of BC Support Contracted Employees, seconded by Lisa Summers. Motion carried:

Ayes:

Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Lisa Summers Jennifer Webster

Not Present:

Ernie Stevens III

Motion by Jennifer Webster to rescind the OBC SOP. Hiring and Negotiating OBC Political Appointments, seconded by Lisa Summers. Motion carried:

Ayes:

Daniel Guzman King, David P. Jordan, Trish King, Kirby Metoxen,

Brandon Stevens, Lisa Summers, Jennifer Webster

Not Present:

Ernie Stevens III

4. Review the posting request - Table Games (00:47:14)
Sponsor: Louise Cornelius, Gaming General Manager

Motion by David P. Jordan to approve the posting request from Table Games for one (1) Table Games Director, seconded by Brandon Stevens. Motion carried:

Ayes:

Daniel Guzman King, David P. Jordan, Trish King, Brandon Stevens,

Lisa Summers, Jennifer Webster

Opposed, Not Present: Kirby Metoxen Ernie Stevens III

5. Review the hiring request and determine next steps - Gaming Facilities

Sponsor: Louise Cornelius, Gaming General Manager

Motion by Lisa Summers to approve the hiring request from Gaming Facilities for one (1) Maintenance Manager and one (1) Custodial Manager, seconded by Daniel Guzman King. Motion carried:

Ayes:

Daniel Guzman King, David P. Jordan, Trish King, Brandon Stevens,

Lisa Summers, Jennifer Webster

Opposed:

Kirby Metoxen Ernie Stevens III

Not Present

For the record: Councilman Kirby Metoxen stated I just feel that the General Manager at Gaming, they have the authority to hire those, I don't feel they need BC approval.

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# **Oneida Business Committee Agenda Request**

Adopt resolution entitled Amendments to the Boards, Committees, and Commissions Law

1. Meeting Date Requested: 8 / 12 / 20
2. General Information:
Session:   Open Executive - See instructions for the applicable laws, then choose one:
Agenda Header: Resolutions
☐ Accept as Information only
Adopt the resolution titled, "Amendments to the Boards, Committees, and Commissions Law"
3. Supporting Materials  Report Resolution Contract  Other:
1. Adoption Packet 3.
2.
<ul> <li>□ Business Committee signature required</li> <li>4. Budget Information</li> <li>□ Budgeted - Tribal Contribution</li> <li>□ Budgeted - Grant Funded</li> <li>□ Unbudgeted</li> </ul>
5. Submission
Authorized Sponsor / Liaison: David P. Jordan, Councilmember
Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney  Your Name, Title / Dept. or Tribal Member
Additional Requestor:  Name, Title / Dept.
Additional Requestor:  Name, Title / Dept.  Name, Title / Dept.





# Oneida Nation Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54155-365



TO: Oneida Business Committee

FROM: David P. Jordan, LOC Chairperson 🔟

DATE: August 12, 2020

RE: Amendments to the Boards, Committees, and Commissions Law

Please find the following attached backup documentation for your consideration of the amendments to the Boards, Committees, and Commissions law:

- 1. Resolution: Amendments to the Boards, Committees, and Commissions Law
- 2. Statement of Effect: Amendments to the Boards, Committees, and Commissions Law
- 3. Boards, Committees, and Commissions Law Amendments Legislative Analysis
- 4. Boards, Committees, and Commissions Law Amendments (Redline)
- 5. Boards, Committees, and Commissions Law Amendments (Clean)
- 6. Boards, Committees, and Commissions Law Fiscal Impact Statement

#### Overview

On March 11, 2020, the Oneida Business Committee adopted emergency amendments to the Boards, Committees, and Commissions law through resolution BC-03-11-20-B to address the ineligibility of an individual to serve on a board, committee, or commission due to the potential for a conflict of interest to exist based on his or her employment with the Nation. Then on March 17, 2020, additional emergency amendments to the Boards, Committees, and Commissions law were made through resolution BC-03-17-20-C to address how meetings are held, and the limitations on stipends in response to the COVID-19 pandemic. The emergency amendments are set to expire on September 17, 2020.

The Legislative Operating Committee has now prepared permanent amendments to the Boards, Committees, and Commissions law for the Oneida Business Committee's consideration. The purpose of the Boards, Committees, and Commissions law is to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1]. This resolution adopts permanent amendments to the Boards, Committees, and Commissions law which will:

- Allow the Business Committee Support Office to repost a vacancy for an additional time period if insufficient applications are received, as long as notification is provided to the Oneida Business Committee [1 O.C. 105.5-5];
- Allow the Business Committee Support Office to request additional time from the Oneida Business Committee in compiling the applications, summary of qualifications, or results of any investigation [1 O.C. 105.7-1(a)(3)];
- Clarify a deadline for when a Chairperson of an entity has to submit a recommendation for an appointment to the entity for the Oneida Business Committee's consideration [1 O.C.

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105.7-1(b)(1)];

Allow for the oath of office to be taken at an alternative time and location other than during a regular or special Oneida Business Committee meeting as determined by the Secretary, as long as a quorum of the Oneida Business Committee is present to witness the oath [1 O.C. 105.9-1];

- Require that the entity's bylaws provide how the entity shall approve purchases or travel on behalf of the entity, but clarify the Business Committee Support Office has budgetary sign off authority on behalf of the entity [1 O.C. 105.10-3(b)(6)];
- Reinstate the requirement that an entity audio record all meetings [1 O.C. 105.10-3(f)(5)];
- Clarify that only a member of an entity shall respond to e-polls [1 O.C. 105.11-3];
- Eliminate the requirement that a member of a board, committee, or commission be physically present during the entirety of a meeting or joint meeting in order to be eligible to receive a meeting stipend, but still require the member to be present and participate for the entire meeting through some means [1 O.C. 105.13-3, 105.13-4];
- Address how technological issues during a meeting held through telecommunications is addressed and how it may affect a member's eligibility for a meeting stipend [1 O.C. 105.13-3(d), 105.13-4(c)];
- Provide that meetings and joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications [1 O.C. 105.13-3, 105.13-4];
- Revise how the limitation of stipend eligible meetings is calculated [1 O.C. 105.13-3, 105.13-4];
- Clarify how eligibility for a conference or training stipend is calculated [1 O.C. 105.13-8];
- Provide a deadline for a member to activate his or her e-mail address, and clarify when an ad hoc or alternate member of an entity must have an official e-mail address [1 O.C. 105.14-3(b)]; and
- Specify that certain positions within the Nation are ineligible to serve on a board, committee, or commission of the Nation due to the potential for a real or perceived conflict of interest to exist. [1 O.C. 105.15-3].

The Legislative Operating Committee developed the proposed amendments to the Boards, Committees, and Commissions law through input received from the following departments and entities during the one (1) year review of the Boards, Committees, and Commissions law as adopted through resolution BC-09-26-18-C: Oneida Law Office, Business Committee Support Office, Oneida Land Commission, Oneida Trust Enrollment Committee, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida Police Commission, Oneida Personnel Commission, and Oneida Nation Arts Board.

A public meeting, in accordance with the Legislative Procedures Act, was not held for the proposed amendments to the Boards, Committees, and Commissions law due to the COVID-19 pandemic. In early 2020 the world was hit with the COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts. On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. This Public Health State of Emergency was extended through August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.



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On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer at Home" declaration which orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibits all public gatherings of any number of people. On April 21, 2020, the COVID-19 Core Decision Making Team issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume. On May 19, 2020, the COVID-19 Core Decision Making Team issued a "Safer at Home Declaration, Amendment, Open for Business" which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons. Then on June 10, 2020, the COVID-19 Core Decision Making Team issued a "Stay Safer at Home" declaration which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

On March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Suspension of Public Meetings under the Legislative Procedures Act" declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

Although no public meeting for the proposed amendments to the Boards, Committees, and Commissions law was held in person, the public comment period was still held open until July 9, 2020, for the submission of written comments. Five (5) individuals submitted written comments during the public comment period for a total of twenty-four (24) comments received. All public comments received were reviewed and considered by the Legislative Operating Committee July 9, 2020, and July 16, 2020. Any changes made based on those comments have been incorporated into this draft.

### **Requested Action**

Approve the Resolution: Amendments to the Boards, Committees, and Commissions Law



# **Oneida Nation**

Post Office Box 365

Phone: (920)869-2214



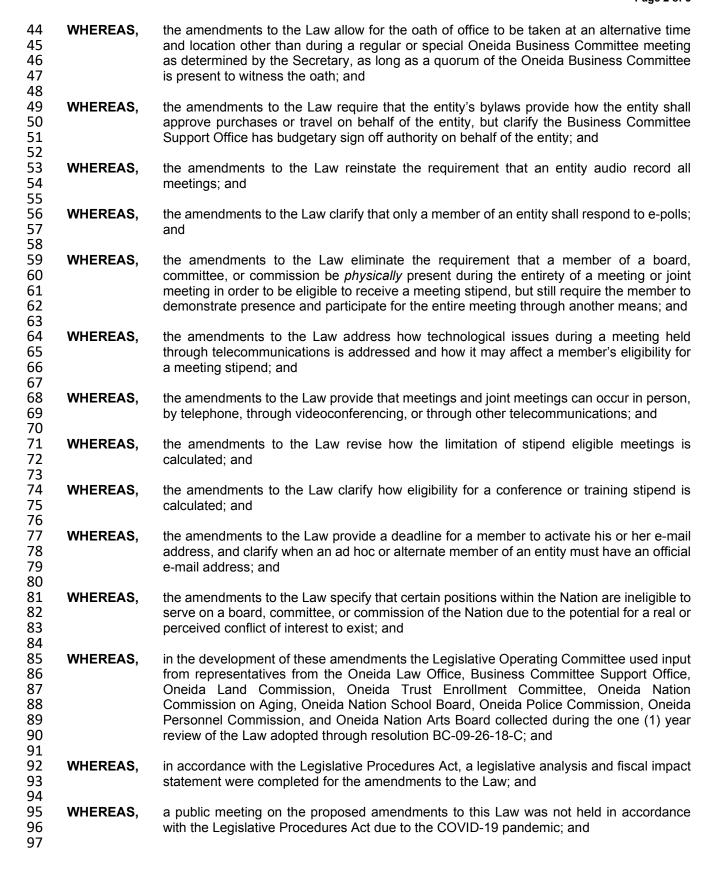
Oneida, WI 54155

# BC Resolution # Amendments to the Boards, Committees, and Commissions Law

1 2 3	WHEREAS,	the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
4 5	WHEREAS,	the Oneida General Tribal Council is the governing body of the Oneida Nation; and
6 7 8	WHEREAS,	the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
9 10 11 12	WHEREAS,	the Boards, Committees, and Commissions law ("the Law") was adopted by the Oneida Business Committee through BC-05-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, BC-09-26-18-C; and
13 14 15 16 17	WHEREAS,	the purpose of the Law is to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions; and
18 19 20 21	WHEREAS,	the Oneida Business Committee adopted emergency amendments to the Law through resolution BC-03-11-20-B and BC-03-17-20-C in accordance with the emergency adoption process set forth by the Legislative Procedures Act; and
22 23 24 25 26	WHEREAS,	the emergency amendments addressed the ineligibility of an individual to serve on a board, committee, or commission due to the potential for a conflict of interest to exist based on his or her employment with the Nation, as well as how meetings are held and the limitations on stipends in response to the COVID-19 pandemic; and
27 28	WHEREAS,	the emergency amendments are set to expire on September 17, 2020; and
29 30 31	WHEREAS,	the Legislative Operating Committee has developed permanent amendments to the Law for consideration by the Oneida Business Committee; and
32 33 34 35	WHEREAS,	the amendments to the Law allow the Business Committee Support Office to repost a vacancy for an additional time period if insufficient applications are received, as long as notification is provided to the Oneida Business Committee; and
36 37 38 39	WHEREAS,	the amendments to the Law allow the Business Committee Support Office to request additional time from the Oneida Business Committee for compiling the applications, summary of qualifications, or results of any investigation; and
40 41 42 43	WHEREAS,	the amendments to the Law clarify a deadline for when a Chairperson of an entity has to submit a recommendation for an appointment to the entity for the Oneida Business Committee's consideration; and

**BC** Resolution

Amendments to the Boards, Committees, and Commissions Law



BC Resolution \_

Amendments to the Boards, Committees, and Commissions Law
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on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of WHEREAS, Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, which was then subsequently extended through August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A; and on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer WHEREAS, at Home" declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their

place of residence, with certain exceptions allowed; and

**WHEREAS**,

the Nation's COVID-19 Core Decision Making Team modified the "Safer at Home" declaration on April 21, 2020, with the issuance of the "Updated Safer at Home" declaration, on May 19, 2020, with the "Safer at Home Declaration, Amendment, Open for Business" declaration, and then again on June 10, 2020, with the issuance of the "Stay Safer at Home" declaration; and

whereas, on March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Suspension of Public Meetings under the Legislative Procedures Act" declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period; and

WHEREAS, although a public meeting was not held for the proposed amendments to this Law, the public comment period for the amendments to this Law was held open until July 9, 2020; and

**WHEREAS,** the Legislative Operating Committee reviewed and considered all public comments received on July 9, 2020, and July 16, 2020; and

**NOW THEREFORE BE IT RESOLVED,** that the amendments to the Boards, Committees, and Commissions law are hereby adopted and shall be effective on August 26, 2020.

**BE IT FURTHER RESOLVED**, that the amended Boards, Committees, and Commissions law hereby supersedes any conflicting language that may be found in the bylaws of boards, committees, or commissions of the Nation.

**BE IT FINALLY RESOLVED**, that an individual employed in a position identified in section 105.15-3(a)-(c) that is currently simultaneously serving on an elected board, committee, or commission of the Nation shall be allowed to complete his or her term.



#### Oneida Nation Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54155-0365



#### **Statement of Effect**

Amendments to the Boards, Committees, and Commissions Law

### **Summary**

This resolution adopts amendments to the Boards, Committees, and Commissions law.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: July 30, 2020

## Analysis by the Legislative Reference Office

The Boards, Committees, and Commissions law ("the Law") was adopted by the Oneida Business Committee for the purpose governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1]. The Boards, Committees, and Commissions law was most recently amended on an emergency basis through the adoption of resolution BC-03-11-20-B and BC-03-17-20-C for the purpose of addressing the ineligibility of an individual to serve on a board, committee, or commission due to the potential for a conflict of interest to exist based on his or her employment with the Nation, as well as addressing how meetings are held, and the limitations on stipends in response to the COVID-19 pandemic. The emergency amendments are set to expire on September 17, 2020.

This resolution seeks permanent amendments to the Boards, Committees, and Commissions law which will:

- Allow the Business Committee Support Office to repost a vacancy for an additional time period if insufficient applications are received, as long as notification is provided to the Oneida Business Committee [1 O.C. 105.5-5];
- Allow the Business Committee Support Office to request additional time from the Oneida Business Committee in compiling the applications, summary of qualifications, or results of any investigation [1 O.C. 105.7-1(a)(3)];
- Clarify a deadline for when a Chairperson of an entity has to submit a recommendation for an appointment to the entity for the Oneida Business Committee's consideration [1 O.C. 105.7-1(b)(1)];
- Allow for the oath of office to be taken at an alternative time and location other than during a regular or special Oneida Business Committee meeting as determined by the Secretary, as long as a quorum of the Oneida Business Committee is present to witness the oath [1 O.C. 105.9-1];
- Require that the entity's bylaws provide how the entity shall approve purchases or travel on behalf of the entity, but clarify the Business Committee Support Office has budgetary sign off authority on behalf of the entity [1 O.C. 105.10-3(b)(6)];
- Reinstate the requirement that an entity audio record all meetings [1 O.C. 105.10-3(f)(5)];
- Clarify that only a member of an entity shall respond to e-polls [1 O.C. 105.11-3];
- Eliminate the requirement that a member of a board, committee, or commission be

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physically present during the entirety of a meeting or joint meeting in order to be eligible to receive a meeting stipend, but still require the member to be present and participate for the entire meeting through some means [1 O.C. 105.13-3, 105.13-4];

- Address how technological issues during a meeting held through telecommunications is addressed and how it may affect a member's eligibility for a meeting stipend [1 O.C. 105.13-3(d), 105.13-4(c)];
- Provide that meetings and joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications [1 O.C. 105.13-3, 105.13-4];
- Revise how the limitation of stipend eligible meetings is calculated [1 O.C. 105.13-3, 105.13-4];
- Clarify how eligibility for a conference or training stipend is calculated [1 O.C. 105.13-8];
- Provide a deadline for a member to activate his or her e-mail address, and clarify when an ad hoc or alternate member of an entity must have an official e-mail address [1 O.C. 105.14-3(b)]; and
- Specify that certain positions within the Nation are ineligible to serve on a board, committee, or commission of the Nation due to the potential for a real or perceived conflict of interest to exist. [1 O.C. 105.15-3].

The Legislative Procedures Act ("the LPA") was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA requires that for all proposed legislation both a legislative and fiscal analysis be developed. [1 O.C. 109.6 and 109.7]. The proposed amendments to the Boards, Committees, and Commissions law comply with these requirements.

The LPA also requires that there be an opportunity for public review during a public meeting and public comment period. [1 O.C. 109.8]. A public meeting for the Boards, Committees, and Commissions law amendments was not held due to the COVID-19 pandemic. In early 2020 the world experienced a COVID-19 pandemic resulting in many countries experiencing the effects of health issues and mortality related to COVID-19 and vast economic impacts.

In accordance with the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020. [3 O.C. 302.8-1]. The Public Health State of Emergency for the Nation has been extended until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team ("COVID-19 Team"). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation's laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.10-2]. These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].



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On March 24, 2020, the Nation's COVID-19 Team made a "Safer at Home" declaration which prohibits all public gatherings of any number of people and orders all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Core Decision Making Team issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume. On May 19, 2020, the COVID-19 Core Decision Making Team issued a "Safer at Home Declaration, Amendment, Open for Business" which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons. Then on June 10, 2020, the COVID-19 Core Decision Making Team issued a "Stay Safer at Home" declaration which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

On March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Suspension of Public Meetings under the Legislative Procedures Act" declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

Although a public meeting for the Boards, Committees, and Commissions law amendments was not held, the public comment period was still held open until July 9, 2020. The Legislative Operating Committee reviewed and considered the public comments that were received on July 9, 2020, and July 16, 2020.

Adoption of this resolution complies with the process and procedures of the LPA as it has been modified by the COVID-19 Team's "Suspension of Public Meetings under the Legislative Procedures Act" declaration.

This resolution provides that the amendments to the Boards, Committees, and Commissions law would become effective on August 26, 2020, in accordance with the LPA. [1 O.C. 109.9-3].

#### **Conclusion**

Adoption of this resolution would not conflict with any of the Nation's laws. Adoption of this resolution complies with the Legislative Procedures Act as it has been modified by the COVID-19 Core Decision Making Team's "Suspension of Public Meetings under the Legislative Procedures Act" declaration.



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# AMENDMENTS TO THE BOARDS, COMMITTEES, and COMMISSIONS LAW LEGISLATIVE ANALYSIS

# SECTION 1. EXECUTIVE SUMMARY

SECTION 1. EXECUTIVE SUMMARY					
Analysis by the Legislative Reference Office					
Intent of the Proposed	<ul> <li>Allow the Business Committee Support Office to repost a vacancy for an additional time period if insufficient applications are received, as long as notification is provided to the Oneida Business Committee;</li> </ul>				
Amendments	Allow the Business Committee Support Office to request additional time from the Oneida Business Committee in compiling the applications, summary of qualifications, or results of				
	<ul> <li>any investigation;</li> <li>Clarify a deadline for when a Chairperson of a board, committee, or commission of the Nation has to submit a recommendation for an appointment to the entity for the Oneida Business</li> </ul>				
	Committee's consideration;  Allow for the oath of office to be taken at an alternative time and location than during a regular				
	or special Oneida Business Committee meeting as determined by the Secretary, as long a quorum of the Oneida Business Committee is present to witness the oath;  Require that the entity's bylaws provide how the entity shall approve purchases or travel behalf of the entity, but clarify the Business Committee Support Office has budgetary sign authority on behalf of the entity;				
	<ul> <li>Require that an entity audio record all meetings;</li> </ul>				
	Clarify that only a member of an entity shall respond to e-polls;				
	<ul> <li>Eliminate the requirement that a member of a board, committee, or commission be physically present during the entirety of a meeting or joint meeting in order to be eligible to receive a meeting stipend, but still require the member to be present and participate for the entire meeting through some means;</li> </ul>				
	<ul> <li>Address how technological issues during a meeting held through telecommunications is address and how it may affect a member's eligibility for a meeting stipend;</li> </ul>				
	<ul> <li>Provide that meetings and joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications;</li> </ul>				
	Revise how the limitation of stipend eligible meetings is calculated;				
	<ul> <li>Clarify how eligibility for a conference or training stipend is calculated;</li> <li>Provide a deadline for a member to activate his or her e-mail address, and clarify when an ad hoc or alternate member of an entity must have an official e-mail address;</li> </ul>				
	<ul> <li>Specify that certain positions within the Nation are ineligible to serve on a board, committee, or commission of the Nation due to the potential for a real or perceived conflict of interest to exist.</li> </ul>				
Purpose	To govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards,				
100	committees and commissions. [1 O.C. 105.1-1]				
Affected	Oneida Election Board, Oneida Gaming Commission, Oneida Land Claims Commission, Oneida Land Commission, Oneida Nation Commission on Aging, Oneida Nation School Board, Oneida				
Entities	Trust Enrollment Committee, Anna John Resident Centered Care Community Board, Oneida				
	Community Library Board, Oneida Environmental Resource Board, Oneida Nation Arts Board,				
	Oneida Personnel Commission, Oneida Police Commission, Oneida Pow Wow Committee, Oneida Nation Veterans Affairs Committee, Pardon and Forgiveness Screening Committee, Southeastern				
	WI Oneida Tribal Services Advisory Board				
Public	A public comment period was held open until July 9, 2020. A public meeting was not held in				
Meeting	accordance with the Nation's COVID-19 Core Decision Making Team's declaration titled, "Suspension of Public Meetings under the Legislative Procedures Act."				
Fiscal Impact					

#### **SECTION 2. LEGISLATIVE DEVELOPMENT**

- **A.** *Background*. The Boards, Committees, and Commissions law ("the Law") was first adopted by the Oneida Business Committee on August 2, 1995, for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. *[1 O.C. 105.1-1]*. The Law was last amended on a permanent basis thorough the adoption of resolution BC-09-26-18-C, and then amended on an emergency basis through the adoption of resolutions BC-03-11-20-B and BC-03-17-20-C.
- **B.** The Legislative Operating Committee proposed amendments be made to this Law to permanently adopt some of the emergency amendments that were recently made to the Law, as well as to address various considerations that arose during the one (1) year review of the Law as adopted through BC-09-26-18-C.
- C. Table 1 illustrates the various boards, committees, and commissions of the Nation this Law applies to. This Law does not apply to the Oneida Business Committee, standing committees of the Oneida Business Committee, corporate entities, or members of the Judiciary.

Table 1. Boards, Committees and Commissions of the Nation

Table 1. Boards, Committees and Commissions of the Nation				
ELECTED	APPOINTED			
<ul><li>Oneida Election Board</li></ul>	Anna John Resident Centered Care Community			
<ul> <li>Oneida Gaming Commission</li> </ul>	Board (AJRCC)			
<ul> <li>Oneida Land Claims Commission</li> </ul>	<ul> <li>Oneida Community Library Board</li> </ul>			
<ul><li>Oneida Land Commission</li></ul>	<ul> <li>Oneida Environmental Resource Board (ERB)</li> </ul>			
<ul> <li>Oneida Nation Commission on</li> </ul>	<ul> <li>Oneida Nation Arts Board</li> </ul>			
Aging (ONCOA)	<ul> <li>Oneida Personnel Commission</li> </ul>			
<ul> <li>Oneida Nation School Board</li> </ul>	<ul> <li>Oneida Police Commission</li> </ul>			
■ Oneida Trust Enrollment	<ul> <li>Oneida Pow Wow Committee</li> </ul>			
Committee	■ Oneida Nation Veterans Affairs Committee			
	(ONVAC)			
	<ul> <li>Pardon and Forgiveness Screening Committee</li> </ul>			
	Southeastern WI Oneida Tribal Services Advisory			
	Board (SEOTS)			

#### SECTION 3. CONSULTATION AND OUTREACH

- **A.** Representatives from the following departments or entities participated in the one (1) year review of the Law as adopted through resolution BC-09-26-28-C which was then used in development of amendments to this Law and legislative analysis:
  - Oneida Law Office:
  - Business Committee Support Office;
  - Oneida Land Commission:
  - Oneida Trust Enrollment Committee;
  - Oneida Nation Commission on Aging;
    - Oneida Nation School Board;
  - Oneida Police Commission;

- Oneida Personnel Commission; and
  - Oneida Nation Arts Board.
  - **B.** The following laws were reviewed in the drafting of this analysis: Election Law, Removal law, Code of Ethics, Conflict of Interest Policy, Oneida Nation Gaming Ordinance, Computer Resources Ordinance, Social Media Policy.

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#### **SECTION 4. PROCESS**

- **A.** The amendments to this Law have followed the process set forth in the Legislative Procedures Act.
  - On February 12, 2020, the Oneida Business Committee adopted a motion "to request the Legislative Operating Committee to consider amendments to the Boards, Committees and Commissions law as agreed upon at the February 3, 2020, joint meeting with the Oneida Land Commission."
  - The LOC added the amendments to the Active Files List on February 19, 2020.
  - The Oneida Business Committee adopted emergency amendments to the Law on March 11, 2020, through the adoption of resolution BC-03-11-20-B, to address ineligibility due to a conflict of interest. These emergency amendments were set to expire on September 11, 2020.
  - The Oneida Business Committee adopted emergency amendments to the Law on March 17, 2020, through the adoption of resolution BC-03-17-20-C, to address how meetings are held, and limitations on stipends. These emergency amendments will expire on September 17, 2020.
- **B.** At the time this legislative analysis was developed the following work meetings had been held regarding the development of these amendments:
  - April 23, 2020: LOC work meeting.
  - April 30, 2020: LOC work meeting.
  - May 7, 2020: LOC work meeting.
  - June 2, 2020: LOC work meeting.
- June 4, 2020: LOC work meeting.
  - June 16, 2020: Oneida Business Committee work meeting.
  - July 9, 2020: LOC work meeting.
    - July 16, 2020: LOC work meeting.
    - July 30, 2020: LOC work meeting.
    - C. COVID-19 Pandemic's Effect on the Legislative Process. The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses. A public meeting for the proposed amendments to this Law was not held due to the COVID-19 pandemic.
      - Declaration of a Public Health State of Emergency.
        - On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.

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- On March 28, 2020, the Oneida Business Committee adopted resolution BC-03-28-20-A titled, "Extension of March 12th Declaration of Public Health State of Emergency" which extended the Nation's Public Health State of Emergency declaration until May 12, 2020.
- On May 6, 2020, the Oneida Business Committee adopted resolution BC-05-06-20-A titled, "Extension of Declaration of Public Health State of Emergency Until June 11, 2020" which further extended the Nation's Public Health State of Emergency until June 11, 2020.
- On June 10, 2020, the Oneida Business Committee adopted resolution BC-06-10-20-A titled, "Extension of Declaration of Public Health State of Emergency until July 12, 2020" which further extend the Nation's Public Health State of Emergency until July 12, 2020.
- On July 8, 2020, the Oneida Business Committee adopted resolution BC-05-06-20-A titled, "Extension of Declaration of Public Health State of Emergency Until August 11, 2020" which further extended the Nation's Public Health State of Emergency until August 11, 2020.
- COVID-19 Core Decision Making Team Declarations: Safer at Home.
  - On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer at Home" declaration which ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. This declaration prohibited all public gatherings of any number of people.
  - On April 21, 2020, the COVID-19 Core Decision Making Team issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume.
  - On May 19, 2020, the COVID-19 Core Decision Making Team issued a "Safer at Home Declaration, Amendment, Open for Business" which directs that individuals within the Oneida Reservation should continue to stay at home, businesses can re-open under certain safer business practices, and social distancing should be practiced by all persons.
  - On June 10, 2020, the COVID-19 Core Decision Making Team issued a "Stay Safer at Home" declaration which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.
- COVID-19 Core Decision Making Team Declaration: Suspension of Public Meetings under the Legislative Procedures Act.
  - On March 27, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Suspension of Public Meetings under the Legislative Procedures Act" declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.
- Although a public meeting was not held on the proposed amendments to the Boards, Committees, and Commissions law, a public comment period was still held open until July 9, 2020, in accordance with the Legislative Procedures Act and the COVID-19 Core Decision Making Team's "Suspension of Public Meetings under the Legislative Procedures Act" declaration.
  - Five (5) individuals provided a written submission during the public comment period, for a total of twenty-four (24) comments received on the proposed amendments to the Law.

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A. Reposting for Insufficient Applications. The proposed amendments to the Law allow the Business Committee Support Office to repost a vacancy for an additional time period when insufficient applications are received after the deadline date has passed for appointed positions. [1 O.C. 105.5-5]. The Law clarifies that if the number of applicants is equal to or less than the number of vacancies then it shall be determined to be an insufficient number of applicants. [1 O.C. 105.5-5(a)]. The Business Committee Support Office is required to provide the Oneida Business Committee notification that a position will be reposted. [1 O.C. 105.5-5(a)]. Previously, if an insufficient number of applications were received after the deadline date has passed for appointed positions, it was the Oneida Business Committee who could elect to repost the vacancy for an additional time period.

- Effect. The proposed amendments make the process for reposting a vacancy for an additional time period when insufficient applications are received more efficient because the Business Committee Support Office can take this action immediately, as long as notification is provided to the Oneida Business Committee, instead of having to take the request to the Oneida Business Committee and wait for official action to be taken by the Oneida Business Committee as to whether to repost. Additionally, the Law now provides clarification as to what constitutes an insufficient number of applicants so that the Business Committee Support Office can repost a vacancy when insufficient applicants are received in a consistent manner.
- **B.** Appointment Selection Process. The Law provides that within eight (8) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made. [1 O.C. 105.7-1(a)(1)-(2)]. The proposed amendments to the Law provide that if delays in compiling the applications, summary of qualifications, or results of any investigations exist, the Business Committee Support Office shall request additional time from the Oneida Business Committee to complete requirements of section 105.7-1(a)(1)-(2). [1 O.C. 105.7-1(a)(3)].
  - Effect. The proposed amendments to the Law provide flexibility to the Business Committee Support Office to request additional time to complete the compilation of materials and submission onto the next executive session portion of an Oneida Business Committee meeting if delays exist. The Business Committee Support Office identified that during the first year of this provision being in effect a situation arose where results of a drug test were not available during the twenty-one (21) day time-period. The Business Committee Support Office wants to ensure that if there are any delays in receiving results of a background investigation or drug test, additional time can be requested so that the Business Committee Support Office can ensure that all available relevant information is shared with the Oneida Business Committee and the entity's Chairperson.
- C. Deadline for Recommendation for Appointment by the Chair of an Entity. The proposed amendments to the Law provide that the Chairperson of an entity may review the application materials and submit to the Business Committee Support Office a recommendation to the Oneida Business Committee of an applicant for appointment. [1 O.C. 105.7-1(b)(1)]. The recommendation shall be submitted to the Business Committee Support Office in accordance with the submission deadlines for the Oneida Business Committee meeting in which the appointment is intended to be made. [1 O.C. 105.7-

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1(b)(1)(A)]. Previously, the Law simply stated that the entity's Chairperson may have until the executive session to review the application materials and provide the Oneida Business Committee a recommendation of an applicant for appointment.

- Effect. The proposed amendments to the Law provide more clarification as to a specific deadline and method for recommendations to be submitted. The Business Committee Support Office provided that how recommendations were being submitted was inconsistent, and that issues arose with recommendations being submitted once the Oneida Business Committee was already in executive session. The proposed amendment will provide more guidance to Chairs of boards, committees, and commissions to ensure they know how to properly submit a recommendation to the Oneida Business Committee.
- **D.** *Oath of Office*. The proposed amendments provide that all appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting, or at an alternative time and location as determined by the Secretary. [1 O.C. 105.9-1]. The Law clarifies that if an oath of office is administered outside of an Oneida Business Committee meeting, then a quorum of Oneida Business Committee members is required to be present to witness the oath. [1 O.C. 105.9-1]. Previously, the Law only allowed for an oath of office to be taken at an Oneida Business Committee meeting, although a person was allowed to appear by video conferencing equipment if granted permission by the Secretary.
  - Effect. The proposed amendments provide more flexibility as to when and where an oath of office can be taken. Many members of boards, committees, and commissions expressed that it was burdensome to only allow oaths of office to occur during an Oneida Business Committee meeting. This allows the Secretary to use his or her discretion to allow for an oath of office to be taken at an alternative time or place other than an Oneida Business Committee meeting.
- **E.** Requirement to Audio Record Meetings. The proposed amendments reinstate the requirement that a board, committee, or commission audio record all meetings, and the requirement that the bylaws of a board, committee, or commission address how this will be accomplished. [1 O.C. 105.10-3(f)(5)]. The emergency amendments adopted through resolution BC-03-17-20-C removed this provision from the Law due to the COVID-19 pandemic and the uncertainty of whether a board, committee, or commission will have the capability to audio record meetings.
  - Effect. The proposed amendment simply return this provision back to the Law. The Legislative Operating Committee determined that the requirement to audio record meetings is an important function. The Legislative Operating Committee is confident that boards, committees, and commissions have the ability to audio record meetings even if meetings have to be held remotely through telecommunications. For example, Microsoft Teams has the capability to record meetings that are held through the video call and call functions.
- **F.** Budgetary Sign Off Authority. The proposed amendments revise the requirements for how a board, committee, or commission addresses its purchases and budgetary sign off authority in its bylaws. The proposed amendments require that in its bylaws an entity identify how it shall approve purchases and travel on behalf of the entity. [1 O.C. 105.10-3(b)(6)]. The Law then provides that upon formal approval of a purchase by an entity, the Business Committee Support Office shall have official budgetary sign off authority for the entity. [1 O.C. 105.10-3(b)(6)(B)]. Previously, the bylaws were required to identify the entity's varying levels of budgetary sign-off authority, the members that are authorized to sign-off at each level, and how the entity shall handle approving purchases or travel on behalf of the entity. [1

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O.C. 105.10-3(b)(6)]. The Law has always required that an entity follow the Nation's policies and procedures regarding purchasing and sign off authority. [1 O.C. 105.10-3(b)(6)(A)].

- Effect. Requiring that a board, committee, or commission still formally approve a purchase, but changing formal budgetary sign off authority from the board, committee, or commission to the Business Committee Support Office will allow boards, committees, and commissions to transfer to the automatic procurement process, instead of the manual paper procurement process boards, committees, and commissions have currently been using.
- **G.** Clarification for Responding to an Electronic Poll. The proposed amendments provide clarification that only a member of an entity can respond to an electronic poll, or "e-poll," of an entity. [1 O.C. 105.11-3]. Previously, the Law provided that a response from a member of an entity shall be valid if received from an official e-mail address of the entity.
  - Effect. The proposed amendment provides additional clarify that it is to be the member of a board, committee, or commission himself or herself, and therefore, the use of a proxy to respond to an epoll is not allowed.
- G. Meetings Eligible for Stipends. The proposed amendments eliminate the requirement that a member of a board, committee, or commission be physically present during the entirety of a meeting in order to be eligible to receive a meeting stipend, although the member is still required to be present for the entirety of the meeting. [1 O.C. 105.13-3]. Meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications. [1 O.C. 105.13-3]. The proposed amendments also provide that an entity shall demonstrate presence during an entire meeting by taking roll call on the record at both the beginning and conclusion of a meeting. [1 O.C. 105.13-3(c)]. Previously, the Law required that a member of a board, committee, or commission be physically present for the entirety of a meeting because meetings had to occur in person in order to be eligible for a stipend.
  - Effect. The proposed amendments provide more flexibility to boards, committees, and commissions of the Nation in how they can hold meetings that are eligible for a stipend. Flexibility for how a meeting is held is especially important during times such as this COVID-19 pandemic. Holding meetings by telephone, video conferencing, or other telecommunications will help eliminate any unnecessary contact between individuals which could spread COVID-19, without disrupting the ability of a board, committee, and commission to conduct business and receive a stipend for the business they are conducting. Although the Legislative Operating Committee wants to provide boards, committees, or commissions with more flexibility, it is still important that members of a board, committee, or commission participate and be present for the entirety of a meeting, especially when meetings are not held in person. For that reason, the Legislative Operating Committee included the provision on how a board, committee, or commission can demonstrate presence during a meeting through taking roll call at the beginning and end of a meeting.
- **H.** *Frequency of Meeting Stipends.* The proposed amendments revise how many meetings a board, committee, or commission is eligible to receive a stipend for. The proposed amendments provide that a member of an appointed entity may be eligible for up to twelve (12) meeting stipends per fiscal year, while a member of an elected entity may be eligible for up to twenty-four (24) meeting stipends per fiscal year. [1 O.C. 105.13-3(a)-(b)]. Previously, the Law provided that an individual serving on an appointed entity shall be paid no more than one (1) meeting stipend per month, while an individual serving on an elected entity shall be paid no more than two (2) meeting stipends per month.
  - Effect. The proposed amendments do not change the overall number of meetings a member of a board, committee, or commission may be eligible to receive per fiscal year. Providing the limitation

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on number of meetings that are eligible for a stipend per fiscal year instead of per month provides boards, committees, and commissions with more flexibility in determining when stipend eligible meetings should be held.

- **I.** Joint Meetings Eligible for Stipends. The proposed amendments eliminate the requirement that a member of a board, committee, or commission be *physically* present during the entirety of a joint meeting with the Oneida Business Committee in order to be eligible to receive a joint meeting stipend. [1 O.C. 105.13-4]. The amendments also provide that joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications. [1 O.C. 105.13-4].
  - *Effect*. The proposed amendments provide more flexibility to boards, committees, and commissions of the Nation in how they can hold joint meetings with the Oneida Business Committee that are eligible for a stipend
  - The Oneida Business Committee adopted resolution BC-03-27-19-D titled, "Oneida Business Committee and Joint Meetings with Boards, Committees and Commissions Definitions and Impact" to set standard rules and understandings for joint meetings. Adoption of the proposed amendments result in no conflict or impact on this resolution.
- **J.** *Technological Issues Affecting Presence During a Meeting*. The proposed amendments provide that if a member of an entity experiences technological issues during a regular, emergency, or joint meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the meeting, the member shall notify the entity of the technical issue as soon as possible. [1 O.C. 105.13-3(d), 1-5.13-4(c)]. The Law also allows the an exemption to the stipend eligibility requirement to be present for the entire meeting to be granted if the entity certifies by a majority vote that the member was present for a majority of the meeting despite the technological issue which disrupted the member's presence during the meeting. [1 O.C. 105.13-3(d)(1), 1-5.13-4(c)(1)].
  - Effect. Since meetings may be held by telephone, through videoconferencing, or through other telecommunications it can be assumed that technological problems may arise. [1 O.C. 105.13-3, 105.13-4]. The Legislative Operating Committee added this provision to the Law to allow for exemptions so that a meeting stipend can still be paid to a member of an entity that experiences a technological problem that resulted in the member not being present for the entire meeting, but who still was present for a majority of the meeting.
- **K.** Stipends for Attendance at Conferences and Trainings. The proposed amendments provide that a member of a board, committee, or commission shall be eligible for a stipend for attending a conference or training, when attendance at the conference or training is required by law, bylaw or resolution. [1 O,C. 105.13-8(a)]. The proposed amendments further provide that the amount of the stipend a member is eligible to receive for attendance at a conference or training shall be dependent on whether the member attended up to four (4) hours of a conference or training, or more than four (4) hours of a conference or training. [1 O.C. 105.13-8(a)(1)]. Previously, the Law provided that a member shall be eligible for a stipend for each full day the member is present at a conference or training, when attendance at the conference or training is required by law, bylaw or resolution.
  - Effect. The proposed amendments provide clarification as to how a stipend for attendance at a conference or training will be determined. Previously, there were many questions as to how to interpret what a "full day" of attending a conference and training meant. Many members of boards, committees, and commissions expressed that requiring attendance at a conference or training be a full day was inequitable as it did not reflect the reality of many trainings and conferences being less

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than a full day. The proposed amendment is modeled after how stipends for participation in interviews are handled. This will provide not only clarification on how eligibility for a stipend for attending a conference or training will be determined, but also provide more flexibility to members of boards, committees, and commissions for what trainings or conferences they are eligible to receive a stipend for.

- L. Official Oneida E-Mail Address. The proposed amendments provide that a member of an entity shall have thirty (30) days upon election or appointment to an entity to activate his or her official e-mail address. [1 O.C. 105.14-3(b)]. Previously, there was no deadline associated with when a member of an entity had to activate his or her account. The proposed amendments also clarify that an individual who holds a position as an ad hoc or alternate member of an entity shall be exempt from the requirement to be provided an official e-mail address, unless determined that an e-mail address is necessary for the role and responsibilities of the ad hoc or alternate member. [1 O.C. 105.14-3(c)]. Previously, the Law was not clear as to whether ad hoc or alternate members of an entity were required to be provided an official e-mail address.
  - Effect. The proposed amendments provide clarification for how an official e-mail address for a member of an entity should be used. A deadline for activating the e-mail account was included in the Law because the Business Committee Support Office reported issues with members not activating or using their e-mail. It is very important that a member of an entity have the e-mail address ready for use to ensure that there is a consistent form of communication available to reach all members of a board, committee, and commission, as well as to encourage and ensure confidentiality when conducting business electronically for the entity. The Law clarifies that an ad hoc or alternate member of an entity does not have to be provided an official e-mail address, unless determined that an e-mail address is necessary for the role and responsibilities of the ad hoc or alternate member, because it would not be a good utilization of resources to provide an official e-mail address to an individual that is brought on for a temporary basis, or who will have a limited role and responsibilities.
- M. *Ineligibility Due to Conflicts of Interest*. The proposed amendments to the Law provide that due to the potential for a real or perceived conflict of interest to exist, the following individuals shall not be eligible to serve on an appointed or elected entity: political appointees; an employee of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office or Intergovernmental Affairs and Communications; and an employee who serves as a direct report to the Oneida Business Committee or General Manager. [1 O.C. 105.15-3]. Previously, the Law only provided that political appointees could not serve on an appointed or elected entity due to the potential for a real or perceived conflict of interest to exist.
  - Effect. The proposed amendments expand the restriction to serve on a board, committee, or commission from political appointees to other employees of the Nation. The potential for a real or perceived conflict of interest to exist for an employee of the Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, Intergovernmental Affairs and Communications, or any employee who holds a position as a direct report to the Oneida Business Committee or General Manager is due to the nature of employment in those areas. Those employees have access to confidential information which requires a higher level of professionalism and fiscal responsibilities than other areas. Therefore, it is in the best interest of the Nation to recognize the potential for a conflict of interest to exist and amend the Law to restrict employee related actions on this matter to better protect the Nation from a potential conflict of interest.

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- Number of Employees Impacted. At the time this legislative analysis was drafted, the following number of employees would be impacted as a result of this proposed amendment to the Law:
  - Internal Audit Department: nine (9) employees;
  - Oneida Law Office: eight (8) employees;
  - Finance Administration Office: three (3) employees;
  - Intergovernmental Affairs and Communications: seven (7) employees;
  - Business Committee Support Office: five (5) employees; and
  - Direct Reports: eight (8) employees including the following positions as identified in resolution BC-08-14-19-N:
    - Chief Counsel;
    - General Manager;
    - Gaming General Manager;
    - Intergovernmental Affairs and Communications Director;
    - Emergency Management Director;
    - Area Manager, Human Resources Division;
    - Area Manager, Retail-Profit; and
    - Business Compliance Analyst.
  - Nothing in this Law limits the ability of any department of the Nation from placing their own restrictions and expectations within employment contracts, job descriptions, or standard operating procedures. As a result, there may be employees of the Nation who are already restricted from serving on a board, committee or commission outside of this Law.

#### **SECTION 6. EXISTING LEGISLATION**

- **A.** References to other Laws of the Nation. The following laws of the Nation are referenced in this Law:
  - *Election law.* The Election law governs the procedures for the conduct of orderly elections of the Nation, including pre-election activities. [1 O.C. 102.1-1].
    - The Boards, Committees, and Commissions law provides that applications for elected positions shall be verified according to the Nation's laws and/or policies governing elections. [1 O.C. 105.5-4].
    - The Boards, Committees, and Commissions law provides that all elected positions shall be nominated at a caucus called by the Oneida Election Board, or apply for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment. [1 O.C. 105.8-1]. Additionally, this Law provides that all other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections. [1 O.C. 105.8-2].
  - Open Records and Open Meetings law. The Open Records and Open Meetings law advances the democratic principle of open government by providing access to information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees. [1 O.C. 107.1-1].
    - The Boards, Committees, and Commissions law provides that all removal or destruction of documents of an entity shall be made in accordance with the Nation's laws and policies governing open records and open meetings. [1 O.C. 105.14-2].

- Computer Resources Ordinance. The Computer Resources Ordinance regulates the usage of computer resources owned and operated by the Nation. [2 O.C. 215.1-1].
  - The Boards, Committees, and Commissions law provides that a member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. [1 O.C. 105.14-3(b)].
  - Social Media Policy. The Social Media Policy regulates social media accounts, including a social networking web page, blog or microblog, that is administered on behalf of the Nation or an entity of the Nation. [2 O.C. 218.1-1].
    - The Boards, Committees, and Commissions law provides that a member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. [1 O.C. 105.14-3(b)].
  - Conflict of Interest law. The purpose of the Conflict of Interest law is to ensure that all employees, contractors, elected officials, officers, political appointees, appointed and elected members and all others who may have access to information or materials that are confidential or may be used by competitors of the Nation's enterprises or interests be subject to specific limitations to which such information and materials may be used in order to protect the interests of the Nation. [2 O.C. 217.1-1].
    - The Boards, Committees, and Commissions law provides that all members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest. [1 O.C. 105.15-1].
  - Removal law. The Removal law provides an orderly and fair process that governs the removal of persons elected to serve on boards, committees, and commissions of the Nation. [1 O.C. 104.1-1]. The Removal law provides the various grounds for removal [1 O.C. 104.4-1], as well as the removal process which consists of a petition [1 O.C. 104.5], preliminary review [1 O.C. 104.6], hearing at the Judiciary [1 O.C. 104.7], and ultimate decision by the General Tribal Council [1 O.C. 104.8].
    - The Boards, Committees, and Commissions law provides that any elected member of an entity found to be in violation of this Law may be subject to removal pursuant to any laws or policies of the Nation governing removal. [1 O.C. 105.18-1].
    - The Boards, Committees, and Commissions law also provides that a position in an entity shall be considered vacant upon removal whenever the removal is effective in accordance to any law or policy of the Nation regarding removal. [1 O.C. 105.6-2(b)].
  - **B.** References to Conflicts of Interest in Other Laws. The following laws of the Nation reference conflict of interest as it relates to employees and elected or appointed officials of the Nation. Employees and/or elected and appointed officials are already subject to comply with the following provisions within other laws:
    - Conflict of Interest law. The Conflict of Interest law applies to "all agents, elected officials, officers, political appointees, contractors, appointed and or elected members." [2 O.C. 217.4-1].
      - The Conflict of Interest law requires employees and elected or appointed officials to disclose any conflicts of interest.
        - Failure to disclose a conflict of interest may result in removal in accordance with the Removal law, penalties pursuant to laws of the Nation regarding penalties, or termination of employment. [2 O.C. 217.6-2 and 217.6-3].

When an existing conflict of interest is disclosed, no employee, elected official, or appointed official may participate in the selection, award or administration of a contract, including contracts supported by federal award and/or any other prohibited activities identified in any other law, policy or rule of the Nation. [2 O.C. 217.7].

- There is no conflict with the proposed amendments and compliance with the Conflicts of Interest law. Upon adoption of the proposed amendments, serving on a board, committee, or commission of the Nation while being employed in the Internal Audit Department, Law Office, Finance Administration Office, or Intergovernmental Affairs and Communications, or employed in a position that serves as a direct report to the Oneida Business Committee will become a "prohibited activity identified in a law of the Nation" in accordance with the Conflict of Interest law.
- Code of Ethics law. The Code of Ethics law promotes the highest ethical conduct in all of its elected and appointed officials and employees and represents a minimum standard of conduct which is expected. [1 O.C. 103.1-1]. All government officials, including persons elected to serve on a board, committee or commission are subject to the Nation's Code of Ethics law.
  - The Code of Ethics law provides that a government official shall create and maintain an independent and honorable political system and shall observe high standards of conduct... including, but not limited to:" [1 O.C. 103.3-3(a)].
    - Encouraging separation between departments or entities of tribal government, and should avoid contact or duty that violates such a separation.
    - Avoid participation in action or decision making (except where participation
      is in accordance with the traditions of the Nation) that would present an
      appearance of conflict of interest or an actual conflict of interest.
  - The Code of Ethics law provides that a government official should disqualify themselves when their action or inaction might reasonably be questioned, including, but not limited to personal bias..." [1 O.C. 103.3-5].
  - The Code of Ethics law provides that a government official shall regulate their extra governmental activities to minimize the risk of conflict with duties of their office." [1 O.C. 103.3-6].
  - The Code of Ethics law provides that government officials may be subject to either removal, if elected, or termination, if appointed, for a violation of any part of this ethics code as it applies to them." [1 O.C. 103.6-1].
  - There is no conflict between the proposed amendments and compliance with the Code of Ethics law.
- Election law. The Election law states that "No applicant may have a conflict of interest with the position for which they are being considered, provided that any conflict of interest which may be eliminated within thirty (30) calendar days of being elected shall not be considered as a bar to nomination or election." [1 O.C. 102.5-3].
  - This means that although the proposed amendments to the Boards, Committees, and Commissions law prohibit employees of the Internal Audit Department, Law Office, Finance Administration Office, Intergovernmental Affairs and Communications, or any person employed in a position that serves as a direct report to the Oneida Business Committee from serving on a board, committee, or commission of the Nation, those

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individuals may still be nominated for office, run in an election, and win election to a board, committee or commission. However, the winning candidate would have to eliminate their conflict of interest prior to taking office by resigning from their position of employment.

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C. Restrictions on Employees in Current Bylaws. Boards, committees and commissions may place additional qualifications for membership within their bylaws. Bylaws are a document that provides a framework for the operation and management of a board, committee or commission. Examples of these qualifications include age, residency, education, and experience. Some boards already place restrictions on whether employees of the Oneida Nation may serve on their entity. Below is a review of current restrictions on employees of the Nation. For a full review of qualifications for each entity, please see each entity's bylaws.

**Table 2. Restrictions on Employees in Current Bylaws.** 

Board, Committee or	Employees who may not serve on that entity:	
Commission		
Land Commission	Employees of the Nation's Audit Department, Finance Department, Law Office "or other department associated with items (a) – (j) in section 1-3 of the Land Commission bylaws:  • the Real Property law, • Leasing law, • Building Code, • Condominium Ordinance, • Zoning and Shoreland Protection law, • Eviction and Termination law, • Mortgage and Foreclosure law, • the Cemetery law, • and any other delegating law, policy, rule and/or resolution of the Nation Division Directors or Area Managers for the Oneida Nation, Independent contractor for Land Management or any other department of the Nation associated with items (a) – (j)	
Anna John Resident	Employees of Anna John Resident Centered Care	
Centered Care Community	Community.	
Board		
Oneida Community	Employees or contractors of any Oneida Nation Library Branch.	
Library Board Oneida Environmental	Employees of the Oneida Environmental, Health, Safety and	
Resource Board (ERB)	Land Division	
Oneida Nation Arts Board	Employees of the Oneida Nation Arts Board.	
Oneida Personnel	Employees of the Oneida Nation.	
Commission	Zimproj voo or tile oneitaa ration.	
Oneida Police Commission	Employees of the Oneida Police Department or individuals terminated from the Oneida Police Department.	
Oneida Land Claims	Shall not serve in the capacity of "consultant, contractor or	
Commission	attorney for the Land Claims Commission."	

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**D.** Restrictions on Employees in Current Laws. The following laws of the Nation already restrict certain employees of the Nation from serving on certain boards, committees and commissions of the Nation:

Table 3. Restrictions on Employees in Other Laws of the Nation.

Law or Bylaw	Entity	Restrictions on Oneida Nation Employees	
Oneida Law	Oneida Police	"Must not be an employee of the Oneida	
Enforcement	Commission	Police Department" [3 O.C. 301.6-3(e)].	
Ordinance			
Oneida Nation	Oneida Gaming	"Commissioners shall perform duties on a	
Gaming	Commission	full-time basis and may not, during tenure	
Ordinance		in office, be engaged in any other profession	
		or business activity" [5 O.C. 501.6-9].	

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#### **SECTION 7. OTHER CONSIDERATIONS**

- A. Updates to the Stipend Resolution. The Law requires that the Oneida Business Committee set stipend amounts by resolution. [1 O.C. 105.13-2]. On September 26, 2018, the Oneida Business Committee adopted resolution BC-09-26-18-D titled, "Boards, Committees, and Commissions Law Stipends" which set forth the specific stipend amounts allowed to be paid to a member of a board, committee, or commission. On May 8, 2019, the Oneida Business Committee adopted resolution BC-05-08-19-B titled, "Amending Resolution BC-09-26-18-D Boards, Committees, and Commissions Law Stipends" to allow the Oneida Nation School Board to be eligible to receive a stipend for participating in interviews and/or job description prescreens. Then on March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-D titled, "Amending Resolution BC-05-18-19-B Boards, Committees, and Commissions Law Stipends" to address emergency amendments that were made to the Law. Based on the proposed amendments, revisions to resolution BC-03-17-20-D will have to be made to permanently reflect the new proposal on how to address the limitation of meeting stipends, as well as how stipends for conferences and trainings are determined.
  - Conclusion. The Legislative Operating Committee should consider bringing an amended stipend
    resolution for consideration when the Legislative Operating Committee presents the proposed
    amendments to the Oneida Business Committee for consideration.
- **B.** Suspension of all Non-Emergent Expenses and Stipends and Activity by Certain Boards, Committees, and Commissions. On March 19, 2020, the Nation's COVID-19 Core Decision Making Team issued a declaration titled, "Suspension of all Non-Emergent Expenses and Stipends and Activity by Certain Boards, Committees, and Commissions." This declaration identified that the Nation needed to preserve cash flow to provide funds for regular wages to employees throughout the emergency declaration period, and that activities of boards, committees, and commissions could create contact and spread of COVID-19 through meetings and gatherings. This declaration then suspended all budget expenditures and stipends for certain boards, committees, and commissions of the Nation, as well as discontinued meetings for certain boards, committees, and commissions. For those boards, committees, and commissions of the Nation not specifically identified, the declaration recommended that meetings be discontinued or held remotely.
  - The boards, committees, and commissions of the Nation who had all budget expenditures and stipends suspended by this declaration included:
    - Oneida Community Library Board;
    - Oneida Environmental Resources Board:
    - Oneida Nation Arts Board;
    - Oneida Nation Veterans Affairs Committee;
  - Oneida Personnel Commission;

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- Oneida Pow Wow Committee: 518 Pardon and Forgiveness Screening Committee; 519 Southeast Wisconsin Oneida Tribal Social Services Advisory Board; 520 Finance Committee, Public Member; 521 Audit Committee, Public Member: 522 523 Oneida Land Claims Commission; and 524 Oneida Nation Commission on Aging. The boards, committees, and commissions of the Nation who had all meetings discontinued by this 525 declaration included: 526 527 Oneida Community Library Board; Oneida Environmental Resources Board: 528 529 Oneida Nation Arts Board: Oneida Nation Veterans Affairs Committee; 530 531 Oneida Personnel Commission; 532 Oneida Pow Wow Committee; 533 Pardon and Forgiveness Screening Committee; Southeast Wisconsin Oneida Tribal Social Services Advisory Board; 534 • 535 Oneida Land Claims Commission; and Oneida Nation Commission on Aging. 536 Conclusion. The Legislative Operating Committee should be informed that this declaration was 537 issued by the Nation's COVID-19 Core Decision Making Team. 538 C. Boards, Committees and Commissions in Temporary Closure Status. On April 4, 2020, the Oneida 539 540 Business Committee adopted resolution BC-04-08-20-B titled, "Placing Listed Boards, Committees, 541 and Commissions in Temporary Closure Status." Based on the Nation's Public Health State of Emergency and the necessity to enter into Tier V Budget Contingency measures through resolution 542 BC-04-08-20-C, the Oneida Business Committee reviewed the list of boards, committees and 543 commissions and determined that certain boards, committees, or commissions continuing to operate, 544 generating expenses would affect the overall financial status of the Nation, and therefore those entities 545 546 should be placed on temporary closure to preserve funding for necessary governmental services and activities. This resolution places certain identified boards, committees, and commissions into temporary 547 548 closure for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 549 2021, also identifies that posting of vacancies shall be discontinued for the remainder of Fiscal Year 550 2020 and during any continuing resolution for Fiscal Year 2021. 551 The boards, committees, and commissions of the Nation that were placed on temporary closure 552 include: Oneida Community Library Board; 553 Oneida Environmental Resources Board: 554 Oneida Nation Arts Board; 555 Oneida Nation Veterans Affairs Committee: 556

  - Oneida Personnel Commission;
  - Oneida Pow Wow Committee:
  - Pardon and Forgiveness Screening Committee:
  - Southeast Wisconsin Oneida Tribal Social Services Advisory Board;
- Oneida Land Claims Commission; and 561

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Oneida Nation Commission on Aging.

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Conclusion. The Legislative Operating Committee should be informed that there are boards, committees, and commissions that are currently in temporary closure status based on the financial impacts of the COVID-19 pandemic.

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**D.** *Fiscal Impact*. A fiscal impact statement of the proposed amendments to the Law was provided by the Finance Department on July 20, 2020. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation. [1 O.C. 109.6-1].

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Oneida Business Committee resolution BC-09-25-19-A titled, "Interpreting 'Fiscal Impact Statement' in the Legislative Procedures Act," requires that when developing a fiscal impact statement for the adoption of proposed legislation by the Oneida Business Committee the Finance Department shall, within ten (10) business days of final approval of draft legislation by the Legislative Operating Committee, provide a fiscal impact statement to the Legislative Operating Committee.

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# Title 1. Government and Finances – Chapter 105 BOARDS, COMMITTEES AND COMMISSIONS

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# **BOARDS, COMMITTEES, AND COMMISSIONS**

105.1. Purpose and Policy	105.10. Bylaws
105.2. Adoption, Amendment, Repeal	105.11 Electronic Polling
105.3. Definitions	105.12. Reporting Requirements
105.4. Creation of an Entity	105.13. Stipends, Reimbursement and Compensation
105.5. Applications	105.14. Confidential Information
105.6. Vacancies	105.15. Conflicts of Interest
105.7. Appointment to an Entity	105.16. Use of the Nation's Assets
105.8. Election to an Entity	105.17. Dissolution of an Entity
105.9 Oath of Office	105.18 Enforcement

## 105.1. Purpose and Policy

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105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.

- (a) This law shall not apply to the Oneida Business Committee, or Standing Committees of the Oneida Business Committee.
- (b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

#### 105.2. Adoption, Amendment, Repeal

105.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, and BC-09-26-18-C- and amended by BC-

- 105.2-2. This law may be amended or repealed by the Oneida Business Committee or the General
   Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
- 105.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered
- 24 to have legal force without the invalid portions.
- 105.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.
- 27 105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

#### **29 105.3. Definitions**

105.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

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- (a) "Application" means the form by which a person seeks to be appointed to fill a vacancy on an entity.
  - (b) "Appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee.
  - (c) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.
  - (d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.
  - (e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.
  - (f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.
  - (g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.
  - (h(h) "Direct report" means a position which requires direct contact and supervision by the Oneida Business Committee because of the position, the duties, or the services provided. Direct reports shall be identified by the Oneida Business Committee through resolution
  - (i) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership.
  - (ij) "E-poll" means an electronic poll, which is the act of delivering an e-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.
  - (jk) "Joint meeting" means a meeting with the Oneida Business Committee.
  - (kl) "Nation" means the Oneida Nation.

- (1) Am) "Per Diem≅" means the payment made by the Nation to offset the costs of being on travel on behalf of the Oneida Nation.
- (mn) "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.
- (no) "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance

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included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

- (e) Ap) "Stipend" means the amount paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation.
- (pq) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.
- (qr) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by clear and convincing evidence.
- (FS) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.
- (st) "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, or creation of a new position.

#### 105.4. Creation of an Entity

- 105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.
- 98 105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all powers and responsibilities delegated to the entity.
- 100 105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

#### 105.5. Applications

- 105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.
  - (a) All applications shall include:
    - (1) a statement explaining the attendance requirements of section 105.12-3; and
    - (2) a section regarding disclosures of conflicts of interest.
  - (b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.
- 116 105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of the deadline date.
- 118 105.5-3. Within eight (8) days after the posted deadline for filing applications, the Business Committee Support Office shall notify all persons who have filed an application of the date his or

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- her application was received and if his or her application met the deadline to be considered for the election or appointment.
- 122 105.5-4. Applications for elected positions shall be verified according to the Nation's laws and/or
- policies governing elections. Applications for appointed positions shall be verified by the Business
- 124 Committee Support Office as needed or as required in the bylaws of the entity.
- 125 105.5-5. *Insufficient Applicants*. In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Oneida Business Committee Support Office may elect to:repost for an additional time period.
  - (a) include within the pool of appointed persons late applications, or
  - (a) If the number of applicants is equal to or less than the number of vacancies then it shall be determined to be an insufficient number of applicants.
  - (b) repost The Business Committee Support Office shall notify the Oneida Business Committee if a position will be reposted for an additional time period.
  - (c) In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.
  - (d) The Oneida Business Committee may elect to include within the pool of appointed persons late applications.

#### 105.6. Vacancies

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- 105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws.
- 105.6-2. A position on an entity shall be considered vacant in the following situations:
  - (a) End of Term. A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.
    - (1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.
  - (b) *Removal*. Removal is effective, pursuant to any law and/or policy of the Nation regarding removal.
  - (c) Termination of Appointment. A termination is effective upon a two-thirds (2/3) majority vote of the Oneida Business Committee in favor of a member's termination of appointment.
  - (d) Resignation. A resignation is effective upon:
    - (1) Deliverance of a letter to the Business Committee Support Office and to the Chairperson of the entity, or designee; or-
    - (2) Acceptance by motion of the entity of a verbal resignation.
- (e) New Positions. Vacancies on new entities are effective upon adoption of bylaws.
- 105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.
- 162 105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee

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to post the notice of vacancy. The Business Committee Support Office shall post notice of vacancies at the following times:

- (a) End of Term. Automatically sixty (60) days prior to completion of the term.
- (b) *Removal*. No later than the next Oneida Business Committee meeting following the effective date of the removal.
- (c) Resignation. No later than the next Oneida Business Committee meeting following the Business Committee Support Office's receipt of notice of an effective resignation from the entity.
- (d) New Positions. Upon one of the following conditions:
  - (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
  - (2) upon date specified when creating the entity.
- (e) *Termination of appointment*. No later than the next Oneida Business Committee meeting following the effective date of the termination.
- 105.6-5. Notice of vacancies shall be posted by the Business Committee Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee, as well as any other location deemed appropriate by the Secretary.

## 105.7. Appointment to an Entity

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- 105.7-1. *Appointment Selection*. The following procedures shall be used to determine how the applicant for an appointed position is selected:
  - (a) Within eight (8) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:
    - (1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and
    - (2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made.; or
    - (3) if delays in compiling the applications, summary of qualifications, or results of any investigations exist, request additional time from the Oneida Business Committee to complete requirements of section 105.7-1(a)(1)-(2).
  - (b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.
    - (1) The entity's Chairperson may have until the executive session to review the application materials and providesubmit to the Business Committee Support Office a recommendation to the Oneida Business Committee a recommendation of an applicant for appointment.
      - (A) The recommendation shall be submitted to the Business Committee Support Office in accordance with the submission deadlines for the Oneida

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Business Committee meeting in which the appointment is intended to be made.

Business Committee meeting in which the appointment is intended to be

- (c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough discussion, the Oneida Business Committee shall:
  - (1) chooseselect an applicant for appointment, or
  - (2) ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.
- (d) All appointments shall be made by the Oneida Business Committee during the open session of a regular or special Oneida Business Committee meeting. The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set out in the entity's bylaws.
- (e) During the open session of the regular or special Oneida Business Committee meeting, a member of the Oneida Business Committee may make a motion to appoint an individual. Oneida Business Committee members may:
  - (1) accept the selected applicant and vote to appoint the individual to the vacant position, or
  - (2) reject the selected applicant and vote to oppose the appointment of the individual.
- (f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section, all applications from the first posting shall be considered to have been filed within the deadline period.
- 105.7-2. *Notification of Appointment*. Once an individual is selected for appointment at an Oneida Business Committee meeting, the Nation's Secretary shall notify all applicants of the final status of their application.
  - (a) The Nation's Chairperson shall forward a list of all applicants to the Nation's Secretary and the final decision regarding the selection after the procedures for selection of an applicant described in section 105.7-1 are completed.
  - (b) The Nation's Secretary shall include on the notice to the applicant selected for appointment the following paragraph: A The Oneida Nation reports all income paid by the Oneida Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income.
- 105.7-3. *Declination of Appointment*. An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.
  - (a) An individual may decline an appointment to an entity in the following ways:
    - (1) Delivery of ana letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or

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252 (2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.

- (b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined in section 105.7-1 to select another applicant for appointment.
- 105.7-4. *Termination of Appointment*. An appointed member of an entity serves at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the entity, a member of an appointed entity may have his or her appointment terminated by the Oneida Business Committee.
  - (a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.
  - (b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

#### 105.8. Election to an Entity

- 105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or petitionapply for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.
  - (a) When the Election Board notifies a petitioneran applicant or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: A: The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income..."
- 105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

#### 105.9. Oath of Office

- 105.9-1. All appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting, or at an alternative time and location as determined by the Secretary. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.
  - (a) The When taking an oath, the appointed or elected member shall appear in person at the Oneida Business Committee meeting to take his or her oath, except if granted permission by the Secretary to appear by through video conferencing equipment, or through other telecommunications.
  - (b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum of Oneida Business Committee members shall be present to witness the oath.
- 105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths

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shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.

298 105.9-3. Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the Business Committee Support Office. Copies of the oath shall be forwarded to the new member of the entity and the entity.

105.9-4. The following oath is the standard oath to be used unless a specific oath for the entity is pre-approved by the Oneida Business Committee: I, [name], hereby promise to uphold the laws and regulations of the Oneida Nation, the General Tribal Council, and the Oneida Nation Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and will strictly maintain confidential information. I will carry out the duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

105.9-5. All oaths shall be sufficient to make the appointed or elected member of an entity aware of their duty to the Nation and as members of the entity.

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# 105.10. Bylaws

- 105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.
  - (a) All existing entities <u>mustshall</u> comply with this format and present bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after adoption of this law.
  - (b) Bylaws <u>mustshall</u> contain at least the minimum information required by law, although more information is not prohibited.
  - (c) *Exception*. Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities mustshall have, at minimum, mission or goal statements for completion of the task.
- 105.10-2. Articles. Bylaws shall contain, at a minimum, the following Articles:
  - (a) Article I. Authority.
  - (b) Article II. Officers.
  - (c) Article III. Meetings.
  - (d) Article IV. Expectations.
  - (e) Article V. Stipends and Compensation.
  - (f) Article VI. Records and Reporting.
  - (g) Article VII. Amendments.
- 105.10-3. Sections. Articles shall be divided into "sections" as set out.
  - (a) "Article I. Authority" shall consist of the following:
    - (1) *Name*. The full name of the entity shall be stated, along with any short name that will be officially used.
    - (2) *Establishment*. This section shall state the citation and name, if any, of the creation document.
    - (3) *Authority*. This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.
    - (4) Office. There shall be listed the official office or post box of the entity.

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340 (5) *Membership*. The following information shall be in this section: (A) Number of members on the entity; 341 (B) If members on the entity are elected or appointed, and how a member 342 343 is elected or appointed; 344 (C) How vacancies are filled; and (D) Qualifications for membership on the entity. 345 346 (i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a 347 qualified voter of the Nation, unless a law, policy, or directive sets 348 349 forth a minimum age requirement. 350 (6) Termination or Removal. This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the 351 352 Nation. 353 (7) Trainings and Conferences. This section shall describe any trainings and/or 354 conferences that the entity deems necessary for members to responsibly serve the entity, if any. 355 356 (b) "Article II. Officers" shall consist of the following: (1) Chairperson and Vice-Chairperson. This section creates the chairperson and 357 vice-chairperson positions of the entity. Other officer positions may also be created 358 359 here. 360 (2) Responsibilities of the Chairperson. Because of the importance of this position, all duties and responsibilities of the chairperson, as well as limitations of the 361 chairperson shall be specifically listed here. 362 (3) Responsibilities of the Vice-Chairperson. Because of the importance of this 363 position, all duties and responsibilities of the vice-chairperson, as well as 364 365 limitations of the vice-chairperson shall be specifically listed here. (4) Responsibilities of Additional Officers. There may be additional sections as 366 367 needed for every officer position created in subsection one (1) above. These 368 sections shall state all duties and responsibilities of the officer, as well as any 369 limitations of the officer. 370 (5) Selection of Officers. This section shall identify how a member of the entity 371 shall be selected for an official officer position in the entity. 372 (6) Budgetary Sign-Off Authority Purchases and Travel. This section shall identify 373 the entity's varying levels of budgetary sign-off authority, the members that are 374 authorized to sign-off at each level, and how the entity shall handle 375 approvingapprove purchases or travel on behalf of the entity. (A) An entity shall follow the Nation's policies and procedures regarding 376 377 purchasing and sign-off authority. 378 (B) Upon formal approval of a purchase by an entity, the Business 379 Committee Support Office shall have official budgetary sign off authority 380 for the entity. 381 (C) An entity shall approve a member's request to travel on behalf of the 382 entity by majority vote at a regular or emergency meeting of the entity. 383 (7) Personnel. This section shall state the entity's authority for hiring personnel,

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384 if any, and the duties of such personnel. (c) "Article III. Meetings" shall consist of the following: 385 (1) Regular meetings. This section shall identify when and where regular meetings 386 387 shall be held, and how the entity shall provide notice of the meeting agenda, 388 documents, and minutes. 389 (2) Emergency meetings. This section shall identify what constitutes an emergency 390 meeting, how emergency meetings shall be called, and how the entity shall provide 391 notice of the emergency meeting. (A) All bylaws shall include a provision requiring that within seventy-two 392 393 (72) hours after an emergency meeting, the entity shall provide the Nation's 394 Secretary with notice of the meeting, the reason for the emergency meeting, 395 and an explanation of why the matter could not wait for a regular meeting. 396 (3) Joint Meetings. This section shall identify if joint meetings shall be held, the 397 frequency and location of joint meetings, and how the entity shall provide notice of 398 the meeting agenda, documents, and minutes. 399 (4) Quorum. This section shall identify how many members of an entity create a 400 quorum. 401 (5) Order of Business. This section sets out how the agenda will be set up. (6) Voting. This section shall identify voting requirements, such as, but not limited 402 403 to: 404 (A) the percentages that shall be needed to pass different items; (B) if, and when, the chairperson is allowed to vote; 405 (C) if the use of an e-poll is permissible; and 406 (D) if the use of and e-poll is permissible, who will serve as the 407 Chairperson's designee for the responsibility of conducting an e-poll, if a 408 409 designee is utilized. (d) "Article IV. Expectations" shall consist of the following information: 410 411 (1) Behavior of Members. This section shall identify the behavioral expectations 412 and requirements of a member of the entity, and identify how the entity shall 413 enforce these behavioral expectations. 414 (2) Prohibition of Violence. This section shall prohibit any violent intentional act 415 committed by a member of the entity that inflicts, attempts to inflict, or threatens 416 to inflict emotional or bodily harm on another person, or damage to property, and 417 set forth any further expectations regarding the prohibition of violence. 418 (3) Drug and Alcohol Use. This section shall prohibit the use of alcohol and 419 prohibited drugs for a member of an entity when acting in their official capacity, and set forth any further expectations regarding the use of prohibited drugs and 420 421 422 (4) Social Media. This section shall identify expectations for the use of social 423 media in regards to official business of the entity. 424 (5) Conflict of Interest. This section shall state any standards and expectations 425 additional to those required by law of the Nation in regards to conflicts of interest 426 and how they are handled, as well as requirements related to prohibited activities

resulting from disclosed conflicts of interest, and means by which a party can

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alleviate or mitigate the conflict of interest.

- (e) "Article V. Stipends and Compensation" shall consist of the following information:
  - (1) Stipends. This section shall include a comprehensive list of all stipends members are eligible to receive and the requirements for collecting each stipend, if any in addition to those contained in this law.
  - (2) Compensation. This section shall include details regarding all other forms of compensation members are eligible to receive and the requirements for collecting such compensation, if any in addition to those contained in this law.
- (f) "Article VI. Records and Reporting" shall consist of the following information:
  - (1) Agenda Items. Agenda items shall be maintained in a consistent format as identified by this section.
  - (2) *Minutes*. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity. This may include a summary of action taken by the entity. This section shall identify the format for minutes, and a reasonable timeframe by which minutes shall be submitted to the Business Committee Support Office.
  - (3) *Attachments*. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented. This section shall identify how records of attachments shall be kept.
  - (4) Oneida Business Committee Liaison. Entities shall regularly communicate with the Oneida Business Committee member who is their designated liaison. This section shall identify a format and frequency for communication which may be as the liaison and entity agree to, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. The purpose of the liaison relationship is to uphold the ability of the liaison to act as a support to that entity.
  - (5) Audio Recordings. An entity shall audio record all meetings. This section shall state how the entity shall audio record meetings, and how the entity shall maintain the audio records.
    - (A) *Exception*. Audio recordings of executive session portions of a meeting shall not be required.
- (g) "Article VII. Amendments" consists of:
  - (1) Amendments to Bylaws. This section shall describe how amendments to the bylaws are made. Any amendments to bylaws shall conform to the requirements of this and any other policy of the Nation. Amendments to bylaws shall be approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

#### 105.11. Electronic Polling

- 105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.
- 105.11-2. Conducting an E-Poll. The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-mail

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address of the entity. The e-poll's message shall include the following information:

- (a) The e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.
- (b) The body of the e-poll shall contain the following elements:
  - (1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;
  - (2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"
  - (3) All attachments in \*.pdf format, which are necessary to understand the request being made; and
  - (4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."
    - (A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.
    - (B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.
- 105.11-3. Response to an E-Poll. Only the member of an entity shall respond to an e-poll. A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.
  - (a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.
  - (b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.
  - (c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.
  - (d) The Chairperson, or designee, shall monitor all responses and deadline dates for responses.
- 105.11-4. *Entering an E-Poll in the Record*. Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall contain the following information:
  - (a) Original e-poll request and all supporting documentation;
  - (b) A summary of the e-poll results identifying each member of the entity and his or her response; and
  - (c) A copy of any comment by a member of the entity if comments are made beyond a vote.

#### 105.12. Reporting Requirements

- 105.12-1. *Minutes*. All minutes shall be submitted to the Business Committee Support Office within a reasonable time after approval by the entity, as identified in the entity's bylaws.
  - (a) Actions taken by an entity are valid upon approval of the action by vote, unless the

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bylaws of the entity otherwise require minutes to be approved by the entity before the actions are valid.

- (b) Minutes shall be filed according to this section, and any specific directions within approved bylaws.
- (c) No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the bylaws of that entity.
- 105.12-2. *Standard Operating Procedures*. All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.
- 105.12-3. Quarterly Reports to the Oneida Business Committee. Entities shall provide quarterly reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:
  - (a) *Contact Information*. The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.
  - (b) *Meetings*. When and how often the entity is holding meetings and whether any emergency meetings have been held.
    - (1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.
  - (c) Accomplishments. Details of what the entity has accomplished that quarter, including any special events held during the reporting period and any travel by the members and/or staff.
  - (d) Goals. Details of both the entity's long term goals, the entity's goals for the next quarter, and projected quarterly activities.
  - (e) *Budget*. The amount of the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, and projected budgetary uses for the next quarter.
  - (f) Requests. Details of any requests to the Oneida Business Committee.
  - (g) Other. And any other information deemed appropriate by the entity, as well as any other information required by a law or policy of the Nation.
- 105.12-4. Annual and Semi-Annual Reports to the General Tribal Council. Entities shall provide annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee.
  - (a) Annual and semi-annual reports shall contain information on the number of substantiated complaints against all members of the entity.
  - (b) Each entity with oversight of a department shall also submit annual and semi-annual reports for each department the entity oversees.

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105.12-5. Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

#### 105.13. Stipends, Reimbursement and Compensation

- 105.13-1. Stipends and reimbursement for expenses shall follow the procedures as set out in this section and according to procedures for payment as set out by the Nation, unless otherwise declined by the entity through its bylaws, or declined by a member.
- 105.13-2. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida Business Committee shall periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending the resolution. Stipends are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards. 105.13-3. *Meeting Stipends*. A member of an entity shall only receive a meeting stipend for a regular or emergency meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting. Meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications.
  - (a) *Meeting Stipends for an Appointed Entity*. An individual serving on an appointed entity shall be paid no more than one (1twelve (12)) meeting stipends per month fiscal year.
  - (b) Meeting Stipends for an Elected Entity. An individual serving on an elected entity shall be paid no more than two (2twenty-four (24) meeting stipends per monthfiscal year.
  - (c) Demonstrating Presence During a Meeting. An entity shall demonstrate the presence of its members during a meeting by taking roll call on the record at both the beginning and conclusion of a meeting.
  - (d) Technological Issues Affecting Presence During a Meeting. If a member of an entity experiences a technological issue during a regular or emergency meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the meeting, the member shall notify the entity of the technological issue as soon as possible.
    - (1) An exemption to the stipend eligibility requirement to be present for the entire meeting may be granted if the entity certifies by a majority vote that the member was present for a majority of the meeting despite the technological issue which disrupted the member's presence during the meeting.
- 105.13-4. *Joint Meeting Stipends*. A member of an entity shall only receive a stipend for a joint meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is physically present for the entire meeting. Joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications.
  - (a) An individual shall receive a stipend for his or her attendance at a duly called joint meeting.
    - (1) A joint meeting stipend does not count towards the limitation on meeting stipends as provided for in section 105.13-3(a)-(b).
  - (b) Demonstrating Presence During a Joint Meeting. An entity shall demonstrate the presence of its members during a joint meeting by taking roll call on the record at both the beginning and conclusion of a joint meeting.

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(c) Technological Issues Affecting Presence During a Joint Meeting. If a member of an entity experiences a technological issue during a joint meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the joint meeting, the member shall notify the entity of the technological issue as soon as possible.

(1) An exemption to the stipend eligibility requirement to be present for the entire joint meeting may be granted if the entity certifies by a majority vote that the member was present for a majority of the joint meeting despite the technological issue which disrupted the member's presence during the joint meeting.

- 105.13-5. Oneida Judiciary Hearings. A member of an entity shall receive a Judiciary hearing stipend if the member's attendance at the Judiciary hearing is required by official subpoena.
- 105.13-6. Hearings of an Entity. A member of an entity that maintains hearing authority may 615 616 obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to 617 resolve the matter, including, but not limited to, any continuations of the hearing and decision 618 619 drafting.
- 620 105.13-7. Other Stipends. The Oneida Business Committee shall determine if, and when, any other stipends are appropriate to compensate members of entities for their official actions. All 621 622 possible stipends shall be included in the Oneida Business Committee resolution which sets stipend 623 amounts.
  - 105.13-8. Conferences and Training. A member of any entity, elected or appointed, shall be reimbursed in accordance with the Nation's policy for travel and per diem, for attending a conference or training. Provided that:
    - (a) A member shall be eligible for a stipend for each full day the member is present at theattending a conference or training, when attendance at the conference or training is required by law, bylaw or resolution.
      - (1) The amount of the stipend a member is eligible to receive for attendance at a conference or training shall be dependent on whether the member attended up to four (4) hours of a conference or training, or more than four (4) hours of a conference or training.
    - (b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.
    - (c) No stipend payments shall be made for those days spent traveling to and from the conference or training.
- 105.13-9. Business Expenses. All members of entities shall be eligible for reimbursement for 639 normal business expenses naturally related to membership in the entity.
- 640 105.13-10. Task Force and Ad Hoc Subcommittees. Members of task force, ad hoc committees 641 and subcommittees shall not be eligible for stipends unless specific exception is made by the 642 Oneida Business Committee or the Oneida General Tribal Council.

#### 105.14. Confidential Information

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105.14-1. All members of an entity shall maintain in a confidential manner all information obtained through their position on the entity. The Nation requires that all members of an entity who have access to the Nation's confidential information be subject to specific limitations in order

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to protect the interest of the Nation and ensure that no persons engaged in by the Nation, nor their relatives or associates, benefit from the use of confidential information.

- (a) Confidential information shall be considered and kept as the private and privileged records of the Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.
- (b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the Nation and the entity.
- (c) Upon completion or termination of his or her elected or appointed term of membership in an entity, for any cause whatsoever, the member of the entity will surrender to the Nation, in good condition, all records kept by the member of the entity.
- (d) No member of an entity shall disclose confidential information acquired by reason of his other relationship or status with the Nation for his or her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.
- 105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and <u>canshall</u> only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents <u>mustshall</u> be made in accordance with the Nation's laws and policies <u>regardinggoverning</u> open records and open meetings.
- 105.14-3. Official Oneida Nation E-mail Address. Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.
  - (a) If a member is also an employee of the Nation, he or she shall receive a separate email address from his or her regular work e-mail address.
  - (b(b) A member of an entity shall have thirty (30) days upon election or appointment to an entity to activate his or her official e-mail address.
  - (c) An individual who holds a position as an ad hoc or alternate member of an entity shall be exempt from the requirement to be provided an official e-mail address, unless determined that an e-mail address is necessary for the role and responsibilities of the ad hoc or alternate member.
  - (d) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.
  - (ee) A member of an entity shall exclusively use his or her official e-mail address to electronically conduct any business of the entity, and shall not use anya personal or work e-mail address to electronically conduct any business of the entity.
  - (df) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.

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#### 105.15. Conflicts of Interest

- 105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.
- 105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises, and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.
  - (a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action <u>mustshall</u> be taken by the Nation regarding the status of the official.
- 105.15-3. <u>Ineligibility Due to Conflicts of Interest.</u> Due to the potential for a real or perceived conflict of interest to exist, <u>political appointees the following individuals</u> shall not <u>be eligible to serve on an appointed or elected entity:</u>
  - (a) political appointees;
  - (b) an employee of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications; and
  - (c) an employee who serves as a direct report to the Oneida Business Committee or General Manager.

#### 105.16. Use of the Nation's Assets

- 105.16-1. Entities shall maintain all bank accounts for the Nation's funds in the name of the Oneida Nation. Bank accounts will be reflected on the Oneida Nation's books in accordance with Generally Accepted Accounting Principles.
- 105.16-2. Each member of an entity shall comply with the system of internal accounting controls sufficient to provide assurances that:
  - (a) all transactions are executed in accordance with management's authorization; and
  - (b) access to assets is permitted only in accordance with management's authorization; and
  - (c) all transactions are recorded to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or other applicable criteria.
- 105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the Internal Audit department. If the Internal Audit department finds evidence of noncompliance they shall notify the Oneida Law Office, who will then make a determination of further action to be taken, if any.

# 105.17. Dissolution of an Entity

- 105.17-1. Dissolution of a Task Force or Ad Hoc Committee. A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.
- 732 105.17-2. *Dissolution of an Entity*. All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.
- 734 105.17-3. *Notice of Dissolution*. Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida

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Business Committee shall provide the entity written notice of the dissolution.

105.17-4. Management of Records and Materials. All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.

(a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

#### 105.18. Enforcement

105.18-1. Any member of an entity found to be in violation of this law may be subject to:

- (a) sanctions and penalties in accordance with any laws or policies of the Nation governing sanctions and/or penalties;
- (b) removal pursuant to any laws or policies of the Nation's governing removal, if the individual is a member of an elected entity; or
- (c) termination of appointment by the Oneida Business Committee, if the individual is a member of an appointed entity.

End.

**756** 758 759 Adopted - BC-08-02-95-A 760 Amended - BC-05-14-97-F 761 Emergency Amendments Amended - BC-04-12-06-JJ 762 Amended - BC-09-27-06-E (permanent adoption of emergency amendments) 763 Amended – BC-09-22-10-C 764 Amended - BC-09-26-18-C 765 Emergency Amended – BC-03-11-20-B 766 Emergency Amended – BC-03-17-20-C

767 <u>Amended – BC- - - -</u>

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#### Title 1. Government and Finances – Chapter 105 Laotiyanlahsla?shúha katyohkwaya:tú:se? of the groups we have Their laws BOARDS, COMMITTEES, AND COMMISSIONS

105.1. Purpose and Policy	105.10. Bylaws
105.2. Adoption, Amendment, Repeal	105.11 Electronic Polling
105.3. Definitions	105.12. Reporting Requirements
105.4. Creation of an Entity	105.13. Stipends, Reimbursement and Compensation
105.5. Applications	105.14. Confidential Information
105.6. Vacancies	105.15. Conflicts of Interest
105.7. Appointment to an Entity	105.16. Use of the Nation's Assets
105.8. Election to an Entity	105.17. Dissolution of an Entity
105.9. Oath of Office	105.18. Enforcement

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# 105.1. Purpose and Policy

105.1-1. It is the purpose of this law to govern boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions.

- (a) This law shall not apply to the Oneida Business Committee, or standing committees of the Oneida Business Committee.
- (b) This law does not apply to Tribal corporations due to the corporate structure and autonomy of those entities.

105.1-2. It is the policy of the Nation to have consistent and standard procedures for choosing and appointing or electing the most qualified persons to boards, committees and commissions, for creation of bylaws governing boards committees and commissions, and for the maintenance of information created by and for boards, committees and commissions.

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## 105.2. Adoption, Amendment, Repeal

- 17 105.2-1. This law was adopted by the Oneida Business Committee by resolution BC-05-14-97-F 18 and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, BC-09-26-18-C and amended by 19 BC- - - .
- 20 105.2-2. This law may be amended or repealed by the Oneida Business Committee or the General 21 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
- 22 105.2-3. Should a provision of this law or the application thereof to any person or circumstances 23 be held as invalid, such invalidity shall not affect other provisions of this law which are considered

24 to have legal force without the invalid portions.

- 25 105.2-4. In the event of a conflict between a provision of this law and a provision of another law, 26 the provisions of this law shall control. 27
  - 105.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

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## 105.3. Definitions

- 105.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.
  - (a) "Application" means the form by which a person seeks to be appointed to fill a vacancy

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on an entity.

- (b) "Appointment" means the process by which a person is chosen to fill a vacancy on an entity by the Oneida Business Committee.
- (c) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.
- (d) "Bylaws" means a document which provides a framework for the operation and management of a board, committee, or commission of the Nation chiefly for the government of its members and the regulation of its affairs.
- (e) "Conference" means any training, seminar, meeting, or other assembly of persons which is not an assembly of the entity.
- (f) "Confidential information" means all information or data, whether printed, written, or oral, concerning business or customers of the Nation, disclosed to, acquired by, or generated by a member of an entity in confidence at any time during their elected or appointed term or during their employment.
- (g) "Conflict of interest" means any interest, real or apparent, whether it be personal, financial, political, or otherwise, in which an elected official, officer, political appointee, employee, contractor, or appointed or elected member, or their immediate family members, friends or associates, or any other person with whom they have contact, have that conflicts with any right of the Nation to property, information, or any other right to own and operate activities free from undisclosed competition or other violation of such rights of the Nation. In addition, conflict of interest also means any financial or familial interest an elected official, officer, political appointee, employee, contractor, or appointed or elected member or their immediate family members may have in any transaction between the Nation and an outside party.
- (h) "Direct report" means a position which requires direct contact and supervision by the Oneida Business Committee because of the position, the duties, or the services provided. Direct reports shall be identified by the Oneida Business Committee through resolution
- (i) "Entity" means a board, committee or commission created by the General Tribal Council or the Oneida Business Committee whose members are appointed by the Oneida Business Committee or elected by the Nation's membership.
- (j) "E-poll" means an electronic poll, which is the act of delivering an e-mail to all members of an entity, in order to seek a response which identifies a vote in favor of, opposing, or abstaining to an issue requiring approval by the entity.
- (k) "Joint meeting" means a meeting with the Oneida Business Committee.
- (1) "Nation" means the Oneida Nation.
- (m) "Per Diem" means the payment made by the Nation to offset the costs of being on travel on behalf of the Oneida Nation.
- (n) "Political appointee" means a person appointed by a member of the Oneida Business Committee to provide assistance with the Oneida Business Committee member's daily activities and operations.
- (o) "Prohibited drugs" means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. This also includes prescription medication or over-the-counter medicine used

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in an unauthorized or unlawful manner.

- (p) "Stipend" means the amount paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation.
- (q) "Subcommittee" means a subgroup of an entity; which is comprised of fewer than all members of the entity; which is designated one (1) or more specific responsibilities on behalf of the entity.
- (r) "Substantiated complaint" means a complaint or allegation in a complaint that was found to be valid by clear and convincing evidence.
- (s) "Task Force or Ad Hoc" means a group of persons gathered to pursue a single goal, the accomplishment of which means the disbanding of the group. The goal is generally accomplished in a short time period, i.e. less than one year, but the goal itself may be long-term.
- (t) "Vacancy" means any position on any board, committee or commission caused by resignation, end of term, removal, termination, or creation of a new position.

105.4. Creation of an Entity

- 105.4-1. An entity of the Nation shall be created by a resolution or law adopted by the Oneida Business Committee or General Tribal Council.
- 105.4-2. The law or resolution establishing the entity shall state the purpose of the entity and all powers and responsibilities delegated to the entity.
- 99 105.4-3. The Oneida Business Committee shall be responsible for drafting the initial bylaws of the entity.

105.5. Applications

- 105.5-1. The Oneida Business Committee shall approve all applications to serve on an entity of the Nation. All application materials shall be available in the Business Committee Support Office and any other location specified by the Business Committee Support Office.
  - (a) All applications shall include:
    - (1) a statement explaining the attendance requirements of section 105.12-3; and
    - (2) a section regarding disclosures of conflicts of interest.
  - (b) An additional application form shall be required for those entities that require a background investigation. This background investigation application shall include the applicant's social security number and any other information required for a background investigation. The background investigation application shall be solely used for the background investigation and not included in the application materials that are then shared with the Oneida Business Committee, entity, and/or the Election Board.
- 105.5-2. Applications shall be filed with the Business Committee Support Office by 4:30 p.m. of the deadline date.
- 117 105.5-3. Within eight (8) days after the posted deadline for filing applications, the Business
- 118 Committee Support Office shall notify all persons who have filed an application of the date his or
- her application was received and if his or her application met the deadline to be considered for the
- 120 election or appointment.

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121 105.5-4. Applications for elected positions shall be verified according to the Nation's laws and/or

- policies governing elections. Applications for appointed positions shall be verified by the Business
- 123 Committee Support Office as needed or as required in the bylaws of the entity.
- 124 105.5-5. *Insufficient Applicants*. In the event that there are an insufficient number of applicants after the deadline date has passed for appointed positions, the Business Committee Support Office may repost for an additional time period.
  - (a) If the number of applicants is equal to or less than the number of vacancies then it shall be determined to be an insufficient number of applicants.
  - (b) The Business Committee Support Office shall notify the Oneida Business Committee if a position will be reposted for an additional time period.
  - (c) In the event of reposting, prior applicants will be considered to have filed applications within the deadline period.
  - (d) The Oneida Business Committee may elect to include within the pool of appointed persons late applications.

#### 105.6. Vacancies

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- 105.6-1. The manner by which an individual fills a vacancy, either through election or appointment, shall determine that member's status as an appointed or elected official, despite the entity's classification as an appointed or elected entity pursuant to the entity's bylaws.
- 105.6-2. A position on an entity shall be considered vacant in the following situations:
  - (a) *End of Term*. A vacancy is effective as of 4:30 p.m. of the last day of the month in which the term ends.
    - (1) Although a position is considered vacant once the term ends, the member of the entity may remain in office until the member's successor has been sworn in by the Oneida Business Committee in an effort to prevent a discontinuation of business or a loss of quorum for the entity.
  - (b) *Removal*. Removal is effective, pursuant to any law and/or policy of the Nation regarding removal.
  - (c) Termination of Appointment. A termination is effective upon a two-thirds (2/3) majority vote of the Oneida Business Committee in favor of a member's termination of appointment.
  - (d) Resignation. A resignation is effective upon:
    - (1) Deliverance of a letter to the Business Committee Support Office and to the Chairperson of the entity, or designee; or
    - (2) Acceptance by motion of the entity of a verbal resignation.
- (e) New Positions. Vacancies on new entities are effective upon adoption of bylaws.
- 105.6-3. An entity shall notify the Business Committee Support Office as soon as the entity learns that a position has or will become vacant. All notices of vacancy shall be sent to the entities for clarification or confirmation prior to notification to the Oneida Business Committee.
- 105.6-4. The Business Committee Support Office shall forward the notice of vacancy to the Secretary. The Secretary shall request and receive approval from the Oneida Business Committee to post the notice of vacancy. The Business Committee Support Office shall post notice of vacancies at the following times:
- vacancies at the following times:

  (a) End of Term. Automatically sixty (60) days prior to completion of the term.

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- 165 (b) *Removal*. No later than the next Oneida Business Committee meeting following the effective date of the removal.
  - (c) Resignation. No later than the next Oneida Business Committee meeting following the Business Committee Support Office's receipt of notice of an effective resignation from the entity.
  - (d) New Positions. Upon one of the following conditions:
    - (1) if not specified, immediately upon creation of entity or adoption of bylaws, whichever is later, or
    - (2) upon date specified when creating the entity.
  - (e) *Termination of appointment*. No later than the next Oneida Business Committee meeting following the effective date of the termination.
  - 105.6-5. Notice of vacancies shall be posted by the Business Committee Support Office in all official media outlets of the Nation, as determined by the Oneida Business Committee, as well as any other location deemed appropriate by the Secretary.

## 105.7. Appointment to an Entity

- 105.7-1. *Appointment Selection*. The following procedures shall be used to determine how the applicant for an appointed position is selected:
  - (a) Within eight (8) business days after the posted deadline for submitting an application, or within twenty-one (21) days of the posted deadline if the entity requires a background investigation to be completed as part of the application process, the Business Committee Support Office shall:
    - (1) deliver all applications, along with a summary of qualifications to hold office, and the results of the background investigation if required, to each member of the Oneida Business Committee as well as the entity's Chairperson; and
    - (2) place the appointment for the entity on the next executive session portion of the agenda of a regular or special Oneida Business Committee meeting in which the appointment is intended to be made; or
    - (3) if delays in compiling the applications, summary of qualifications, or results of any investigations exist, request additional time from the Oneida Business Committee to complete requirements of section 105.7-1(a)(1)-(2).
  - (b) Each member of the Oneida Business Committee shall review the application materials prior to executive session and be prepared to discuss and select an applicant for appointment.
    - (1) The entity's Chairperson may review the application materials and submit to the Business Committee Support Office a recommendation to the Oneida Business Committee of an applicant for appointment.
      - (A) The recommendation shall be submitted to the Business Committee Support Office in accordance with the submission deadlines for the Oneida Business Committee meeting in which the appointment is intended to be made.
  - (c) The Oneida Business Committee shall have a full and complete discussion of the merits and qualifications of the potential applicants, and any recommendation made by the Chairperson of the entity, during executive session. After completing a thorough

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209 discussion, the Oneida Business Committee shall: 210 (1) select an applicant for appointment, or 211 212 213 214 215 216 entity's bylaws. 217 218 219 Oneida Business Committee members may: 220 221 position, or 222 223 individual. 224

- ask the Oneida Nation's Secretary to re-notice the vacancy because of ineligible, unqualified, or under qualified applicants.
- (d) All appointments shall be made by the Oneida Business Committee during the open session of a regular or special Oneida Business Committee meeting. The Oneida Business Committee shall not appoint an applicant who fails to meet the requirements set out in the
- (e) During the open session of the regular or special Oneida Business Committee meeting, a member of the Oneida Business Committee may make a motion to appoint an individual.
  - (1) accept the selected applicant and vote to appoint the individual to the vacant
  - (2) reject the selected applicant and vote to oppose the appointment of the
- (f) If the Oneida Business Committee rejects the selected applicant, the matter will be deferred to the next Oneida Business Committee meeting where another applicant may be recommended by the Oneida Business Committee, or the Oneida Business Committee may direct the vacancy to be re-posted. When a vacancy is re-posted under this section, all applications from the first posting shall be considered to have been filed within the deadline period.
- 105.7-2. Notification of Appointment. Once an individual is selected for appointment at an Oneida Business Committee meeting, the Nation's Secretary shall notify all applicants of the final status of their application.
  - (a) The Nation's Chairperson shall forward a list of all applicants to the Nation's Secretary and the final decision regarding the selection after the procedures for selection of an applicant described in section 105.7-1 are completed.
  - (b) The Nation's Secretary shall include on the notice to the applicant selected for appointment the following paragraph: "The Oneida Nation reports all income paid by the Oneida Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."
- 105.7-3. Declination of Appointment. An individual who has been selected for appointment to an entity by the Oneida Business Committee may decline the appointment.
  - (a) An individual may decline an appointment to an entity in the following ways:
    - (1) Delivery of a letter stating that the individual wishes to decline the appointment to the Business Committee Support Office; or
    - (2) The failure to take the oath of office within thirty (30) days of being selected for appointment by the Oneida Business Committee.
  - (b) The Business Committee Support Office shall notify the Oneida Business Committee if an individual declines an appointment to an entity. The Oneida Business Committee shall then use the original pool of applications for the vacancy posting and the process outlined

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in section 105.7-1 to select another applicant for appointment.

105.7-4. *Termination of Appointment*. An appointed member of an entity serves at the discretion of the Oneida Business Committee. Upon the recommendation of a member of the Oneida Business Committee or the entity, a member of an appointed entity may have his or her appointment terminated by the Oneida Business Committee.

- (a) A two-thirds majority vote of the Oneida Business Committee shall be required in order to terminate the appointment of an individual.
- (b) The Oneida Business Committee's decision to terminate an appointment is final and not subject to appeal.

# 105.8. Election to an Entity

- 105.8-1. All elected positions shall be nominated at a caucus called by the Oneida Election Board, or apply for ballot placement, in accordance with the Nation's laws and/or policies governing elections, except where an entity's bylaws allow for a vacancy to be filled by appointment.
  - (a) When the Election Board notifies an applicant or nominee that he or she is eligible to be placed on the ballot, the following paragraph shall be included: "The Oneida Nation reports all income paid by the Nation in whatever form. The Internal Revenue Service of the United States considers stipends paid to members of boards, committees, and commissions to be income which may be offset by expenses related to that income. You will receive an income report which is also forwarded to the Internal Revenue Service, it is also your responsibility to keep documentation of expenses related to this income."
- 105.8-2. All other processes for the election of a member of an entity shall be as directed by the Nation's laws and/or policies governing elections.

#### 105.9. Oath of Office

- 105.9-1. All appointed and elected positions are official upon taking an oath during a regular or special Oneida Business Committee meeting, or at an alternative time and location as determined by the Secretary. All rights and delegated authorities of membership in the entity shall vest upon taking the oath. The Nation's Secretary shall notify the chosen persons when they shall appear for taking the oath.
  - (a) When taking an oath, the appointed or elected member shall appear in person to take his or her oath, except if granted permission by the Secretary to appear through video conferencing, or through other telecommunications.
  - (b) If an oath is administered outside of an Oneida Business Committee meeting, a quorum of Oneida Business Committee members shall be present to witness the oath.
- 105.9-2. The Oneida Business Committee shall approve wording of oaths. Any revisions of oaths shall be approved by the Oneida Business Committee prior to usage. Oaths shall be kept on file by the Business Committee Support Office.
- 291 105.9-3. Originals of the signed oath, or electronic copies of the originals of the signed oath, shall be maintained by the Business Committee Support Office. Copies of the oath shall be forwarded to the new member of the entity and the entity.
- 294 105.9-4. The following oath is the standard oath to be used unless a specific oath for the entity is 295 pre-approved by the Oneida Business Committee: I, [name], hereby promise to uphold the laws 296 and regulations of the Oneida Nation, the General Tribal Council, and the Oneida Nation

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Constitution. I will perform my duties to the best of my ability and on behalf of the Oneida people with honor, respect, dignity, and sincerity and will strictly maintain confidential information. I will carry out the duties and responsibilities as a member of the [entity name], and all recommendations shall be made in the best interest of the Oneida Nation as a whole.

105.9-5. All oaths shall be sufficient to make the appointed or elected member of an entity aware of their duty to the Nation and as members of the entity.

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### 105.10. Bylaws

- 105.10-1. All entities of the Nation shall have bylaws that conform to the requirements of this law. Bylaws shall become effective upon approval of the Oneida Business Committee, unless where General Tribal Council approval is additionally required.
  - (a) All existing entities shall comply with this format and present bylaws for adoption within a reasonable time after creation of the entity, or within a reasonable time after adoption of this law.
  - (b) Bylaws shall contain at least the minimum information required by law, although more information is not prohibited.
  - (c) *Exception*. Task Forces and Ad Hoc Committees are excepted from the requirement to have bylaws. However, these entities shall have, at minimum, mission or goal statements for completion of the task.
- 105.10-2. Articles. Bylaws shall contain, at a minimum, the following Articles:
  - (a) Article I. Authority.
  - (b) Article II. Officers.
  - (c) Article III. Meetings.
  - (d) Article IV. Expectations.
  - (e) Article V. Stipends and Compensation.
  - (f) Article VI. Records and Reporting.
  - (g) Article VII. Amendments.
  - 105.10-3. Sections. Articles shall be divided into "sections" as set out.
    - (a) "Article I. Authority" shall consist of the following:
      - (1) *Name*. The full name of the entity shall be stated, along with any short name that will be officially used.
      - (2) *Establishment*. This section shall state the citation and name, if any, of the creation document.
      - (3) *Authority*. This section shall state the purpose for which the entity was created and what, if any, authority the entity is delegated.
      - (4) Office. There shall be listed the official office or post box of the entity.
      - (5) *Membership*. The following information shall be in this section:
        - (A) Number of members on the entity;
        - (B) If members on the entity are elected or appointed, and how a member is elected or appointed;
        - (C) How vacancies are filled; and
        - (D) Qualifications for membership on the entity.
          - (i) In order to qualify for membership on an entity, a person shall meet the minimum age requirements set forth for status as a

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qualified voter of the Nation, unless a law, policy, or directive sets forth a minimum age requirement.  (6) Termination or Removal. This section shall identify causes for termination or removal, if any, in addition to those already identified in laws and/or policies of the Nation.  (7) Trainings and Conferences. This section shall describe any trainings and/or conferences that the entity deems necessary for members to responsibly serve the entity, if any.  (b) "Article II. Officers" shall consist of the following:  (1) Chairperson and Vice-Chairperson. This section creates the chairperson and vice-chairperson positions of the entity. Other officer positions may also be created here.  (2) Responsibilities of the Chairperson. Because of the importance of this position, all duties and responsibilities of the chairperson, as well as limitations of the chairperson shall be specifically listed here.  (3) Responsibilities of the Vice-Chairperson. Because of the importance of this position, all duties and responsibilities of the vice-chairperson, as well as limitations of the vice-chairperson shall be specifically listed here.  (4) Responsibilities of Additional Officers. There may be additional sections as needed for every officer position created in subsection one (1) above. These sections shall state all duties and responsibilities of the officer, as well as any limitations of the officer.  (5) Selection of Officers. This section shall identify how a member of the entity shall be selected for an official officer position in the entity.  (6) Purchases and Travel. This section shall identify how the cntity shall approve purchases or travel on behalf of the entity.  (A) An entity shall follow the Nation's policies and procedures regarding purchasing and sign-off authority.  (B) Upon formal approval of a purchase by an entity, the Business Committee Support Office shall have official budgetary sign off authority for the cntity.  (C) An entity shall approve a member's request to travel on behalf of the entity by majorit		2020 08 12
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notice of the emergency meeting.		
383 (A) All bylaws shall include a provision requiring that within seventy-two		
384 (72) hours after an emergency meeting, the entity shall provide the Nation's		

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385 Secretary with notice of the meeting, the reason for the emergency meeting, 386 and an explanation of why the matter could not wait for a regular meeting. (3) Joint Meetings. This section shall identify if joint meetings shall be held, the 387 388 frequency and location of joint meetings, and how the entity shall provide notice of 389 the meeting agenda, documents, and minutes. 390 (4) Quorum. This section shall identify how many members of an entity create a 391 quorum. 392 (5) Order of Business. This section sets out how the agenda will be set up. 393 (6) Voting. This section shall identify voting requirements, such as, but not limited 394 395 (A) the percentages that shall be needed to pass different items; 396 (B) if, and when, the chairperson is allowed to vote; 397 (C) if the use of an e-poll is permissible; and 398 (D) if the use of and e-poll is permissible, who will serve as the 399 Chairperson's designee for the responsibility of conducting an e-poll, if a 400 designee is utilized. 401 (d) "Article IV. Expectations" shall consist of the following information: 402 (1) Behavior of Members. This section shall identify the behavioral expectations 403 and requirements of a member of the entity, and identify how the entity shall 404 enforce these behavioral expectations. 405 (2) Prohibition of Violence. This section shall prohibit any violent intentional act committed by a member of the entity that inflicts, attempts to inflict, or threatens 406 to inflict emotional or bodily harm on another person, or damage to property, and 407 set forth any further expectations regarding the prohibition of violence. 408 409 (3) Drug and Alcohol Use. This section shall prohibit the use of alcohol and 410 prohibited drugs for a member of an entity when acting in their official capacity, and set forth any further expectations regarding the use of prohibited drugs and 411 412 alcohol. 413 (4) Social Media. This section shall identify expectations for the use of social 414 media in regards to official business of the entity. 415 (5) Conflict of Interest. This section shall state any standards and expectations 416 additional to those required by law of the Nation in regards to conflicts of interest 417 and how they are handled, as well as requirements related to prohibited activities resulting from disclosed conflicts of interest, and means by which a party can 418 419 alleviate or mitigate the conflict of interest. 420 (e) "Article V. Stipends and Compensation" shall consist of the following information: (1) Stipends. This section shall include a comprehensive list of all stipends 421 422 members are eligible to receive and the requirements for collecting each stipend, if 423 any in addition to those contained in this law. 424 (2) Compensation. This section shall include details regarding all other forms of 425 compensation members are eligible to receive and the requirements for collecting 426 such compensation, if any in addition to those contained in this law. 427 (f) "Article VI. Records and Reporting" shall consist of the following information:

(1) Agenda Items. Agenda items shall be maintained in a consistent format as

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identified by this section.

- (2) *Minutes*. Minutes shall be typed and in a consistent format designed to generate the most informative record of the meetings of the entity. This may include a summary of action taken by the entity. This section shall identify the format for minutes, and a reasonable timeframe by which minutes shall be submitted to the Business Committee Support Office.
- (3) *Attachments*. Handouts, reports, memoranda, and the like may be attached to the minutes and agenda, or may be kept separately, provided that all materials can be identified to the meeting in which they were presented. This section shall identify how records of attachments shall be kept.
- (4) Oneida Business Committee Liaison. Entities shall regularly communicate with the Oneida Business Committee member who is their designated liaison. This section shall identify a format and frequency for communication which may be as the liaison and entity agree to, but not less than that required in any law or policy on reporting developed by the Oneida Business Committee or Oneida General Tribal Council. The purpose of the liaison relationship is to uphold the ability of the liaison to act as a support to that entity.
- (5) Audio Recordings. An entity shall audio record all meetings. This section shall state how the entity shall audio record meetings, and how the entity shall maintain the audio records.
  - (A) *Exception*. Audio recordings of executive session portions of a meeting shall not be required.
- (g) "Article VII. Amendments" consists of:
  - (1) Amendments to Bylaws. This section shall describe how amendments to the bylaws are made. Any amendments to bylaws shall conform to the requirements of this and any other policy of the Nation. Amendments to bylaws shall be approved by the Oneida Business Committee, in addition to the General Tribal Council when applicable, prior to implementation.

# **105.11. Electronic Polling** 459 105.11-1. An entity may ut

- 105.11-1. An entity may utilize an e-poll when approval of an action may be required before the next available meeting agenda of the entity.
- 105.11-2. *Conducting an E-Poll.* The Chairperson of the entity, or designee, shall e-mail the e-poll to all members of the entity. Requests for an e-poll shall be sent only from an official e-mail address of the entity. The e-poll's message shall include the following information:
  - (a) The e-mail subject line shall begin with "E-poll Request:" and include a short title describing the purpose of the request.
  - (b) The body of the e-poll shall contain the following elements:
    - (1) An executive summary of the reason for the request and why the request cannot be presented at the next available meeting of the entity;
    - (2) A proposed motion which shall be in bold and identified in a separate paragraph by the words "Requested Action;"
    - (3) All attachments in \*.pdf format, which are necessary to understand the request being made; and

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 (4) A deadline date for a response to be returned regarding the results of the electronic poll which shall be in bold and identified in a separate paragraph by the words "Deadline for Response."

 (A) E-poll requests shall be open for response not less than one (1) hour and no more than twenty-four (24) hours.

 (B) The time frame for responses shall be determined by the Secretary of the entity, or designee, based on urgency, scheduling, and any other pertinent factors.

105.11-3. Response to an E-Poll. Only the member of an entity shall respond to an e-poll. A response from a member of an entity shall be valid if received from an official e-mail address of the entity. No responses from unknown e-mails or personal e-mails shall be accepted. An e-poll request shall receive responses from a majority of members of the entity in order to be an official vote.

(a) E-polls that receive at least a majority of supporting votes by the deadline are considered to be approved.

(b) E-polls for which insufficient responses were received by the deadline are considered to have failed to receive support, and result in a denied request.

 (c) E-polls that result in a denied request may be reconsidered by the entity at the next available meeting.(d) The Chairperson, or designee, shall monitor all responses and deadline dates for

responses. 105.11-4. *Entering an E-Poll in the Record*. Both approved and denied e-poll requests shall be placed on the next meeting agenda of the entity to be entered into the record. The agenda item shall

(a) Original e-poll request and all supporting documentation;

 (b) A summary of the e-poll results identifying each member of the entity and his or her response; and

(c) A copy of any comment by a member of the entity if comments are made beyond a vote.

# 105.12. Reporting Requirements

contain the following information:

105.12-1. *Minutes*. All minutes shall be submitted to the Business Committee Support Office within a reasonable time after approval by the entity, as identified in the entity's bylaws.

 (a) Actions taken by an entity are valid upon approval of the action by vote, unless the bylaws of the entity otherwise require minutes to be approved by the entity before the actions are valid.

(b) Minutes shall be filed according to this section, and any specific directions within approved bylaws.(c) No action or approval of minutes is required by the Oneida Business Committee on

(c) No action or approval of minutes is required by the Oneida Business Committee on minutes submitted by an entity unless specifically required by the bylaws of that entity.

105.12-2. *Standard Operating Procedures*. All standard operating procedures established by an entity shall be submitted to the Business Committee Support Office, where they shall be kept on file.

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516 105.12-3. *Quarterly Reports to the Oneida Business Committee*. Entities shall provide quarterly

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reports to the Oneida Business Committee in accordance with the quarterly reporting schedule approved by the Oneida Business Committee. All quarterly reports shall be approved by official entity action before they are submitted. The quarterly reports shall not contain any information that conflicts with any law, resolution, or policy of the Nation. At least one (1) member of the entity shall attend the Oneida Business Committee meeting where the quarterly report is an agenda item. Quarterly reports shall follow a format prescribed by the Oneida Business Committee and contain the following information:

- (a) *Contact Information*. The name of the entity, the member submitting the report, the Oneida Business Committee liaison; and a list of the members and their titles, term expiration dates and contact information.
- (b) *Meetings*. When and how often the entity is holding meetings and whether any emergency meetings have been held.
  - (1) If emergency meetings were held, the report shall indicate the basis of the emergency for each meeting.
- (c) Accomplishments. Details of what the entity has accomplished that quarter, including any special events held during the reporting period and any travel by the members and/or staff.
- (d) Goals. Details of both the entity's long term goals, the entity's goals for the next quarter, and projected quarterly activities.
- (e) *Budget*. The amount of the entity's budget, the status of the budget at that quarter, the amount of each stipend a member may be eligible to receive, how the budget is being utilized by the entity, and projected budgetary uses for the next quarter.
- (f) Requests. Details of any requests to the Oneida Business Committee.
- (g) Other. And any other information deemed appropriate by the entity, as well as any other information required by a law or policy of the Nation.
- 105.12-4. Annual and Semi-Annual Reports to the General Tribal Council. Entities shall provide annual reports to the Oneida General Tribal Council based on their activities during the previous fiscal year, and semi-annual reports based on their activities during the current fiscal year. All annual and semi-annual reports shall follow a format prescribed by the Oneida Business Committee.
  - (a) Annual and semi-annual reports shall contain information on the number of substantiated complaints against all members of the entity.
  - (b) Each entity with oversight of a department shall also submit annual and semi-annual reports for each department the entity oversees.
- 105.12-5. Any failure to comply with the reporting requirements may result in the Oneida Business Committee placing a hold on the release of a stipend payment.

## 105.13. Stipends, Reimbursement and Compensation

- 105.13-1. Stipends and reimbursement for expenses shall follow the procedures as set out in this section and according to procedures for payment as set out by the Nation, unless otherwise declined by the entity through its bylaws, or declined by a member.
- 558 105.13-2. The Oneida Business Committee shall set stipend amounts by resolution. The Oneida 559 Business Committee shall periodically review the amounts provided for stipends and, based on the 560 availability of funds, shall adjust those amounts accordingly by amending the resolution. Stipends

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are paid in the form of cash or cash equivalent, which may include, but is not limited to, gift cards. 105.13-3. *Meeting Stipends*. A member of an entity shall only receive a meeting stipend for a regular or emergency meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is present for the entire meeting. Meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications.

- (a) *Meeting Stipends for an Appointed Entity*. An individual serving on an appointed entity shall be paid no more than twelve (12) meeting stipends per fiscal year.
- (b) *Meeting Stipends for an Elected Entity*. An individual serving on an elected entity shall be paid no more than twenty-four (24) meeting stipends per fiscal year.
- (c) Demonstrating Presence During a Meeting. An entity shall demonstrate the presence of its members during a meeting by taking roll call on the record at both the beginning and conclusion of a meeting.
- (d) Technological Issues Affecting Presence During a Meeting. If a member of an entity experiences a technological issue during a regular or emergency meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the meeting, the member shall notify the entity of the technological issue as soon as possible.
  - (1) An exemption to the stipend eligibility requirement to be present for the entire meeting may be granted if the entity certifies by a majority vote that the member was present for a majority of the meeting despite the technological issue which disrupted the member's presence during the meeting.
- 105.13-4. *Joint Meeting Stipends*. A member of an entity shall only receive a stipend for a joint meeting where a quorum has been established in accordance with the duly adopted bylaws of that entity, that lasts for at least one (1) hour, and the member collecting the stipend is present for the entire meeting. Joint meetings can occur in person, by telephone, through videoconferencing, or through other telecommunications.
  - (a) An individual shall receive a stipend for his or her attendance at a duly called joint meeting.
    - (1) A joint meeting stipend does not count towards the limitation on meeting stipends as provided for in section 105.13-3(a)-(b).
  - (b) Demonstrating Presence During a Joint Meeting. An entity shall demonstrate the presence of its members during a joint meeting by taking roll call on the record at both the beginning and conclusion of a joint meeting.
  - (c) Technological Issues Affecting Presence During a Joint Meeting. If a member of an entity experiences a technological issue during a joint meeting held by telephone, through videoconferencing, or through other telecommunications, and the technological issue disrupts the member's presence during the joint meeting, the member shall notify the entity of the technological issue as soon as possible.
    - (1) An exemption to the stipend eligibility requirement to be present for the entire joint meeting may be granted if the entity certifies by a majority vote that the member was present for a majority of the joint meeting despite the technological issue which disrupted the member's presence during the joint meeting.
- 105.13-5. Oneida Judiciary Hearings. A member of an entity shall receive a Judiciary hearing

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stipend if the member's attendance at the Judiciary hearing is required by official subpoena.

105.13-6. *Hearings of an Entity*. A member of an entity that maintains hearing authority may obtain a hearing stipend for conducting hearings administered by the entity. A hearing consists of all functions related to the resolution of the matter notwithstanding the amount of time it takes to resolve the matter, including, but not limited to, any continuations of the hearing and decision drafting.

- 611 105.13-7. *Other Stipends*. The Oneida Business Committee shall determine if, and when, any 612 other stipends are appropriate to compensate members of entities for their official actions. All 613 possible stipends shall be included in the Oneida Business Committee resolution which sets stipend 614 amounts.
- 615 105.13-8. *Conferences and Training*. A member of any entity, elected or appointed, shall be reimbursed in accordance with the Nation's policy for travel and per diem, for attending a conference or training. Provided that:
  - (a) A member shall be eligible for a stipend for attending a conference or training, when attendance at the conference or training is required by law, bylaw or resolution.
    - (1) The amount of the stipend a member is eligible to receive for attendance at a conference or training shall be dependent on whether the member attended up to four (4) hours of a conference or training, or more than four (4) hours of a conference or training.
  - (b) A member shall not be eligible for a conference and training stipend if that training is not required by law, bylaw or resolution.
  - (c) No stipend payments shall be made for those days spent traveling to and from the conference or training.
  - 105.13-9. *Business Expenses*. All members of entities shall be eligible for reimbursement for normal business expenses naturally related to membership in the entity.
  - 105.13-10. *Task Force and Ad Hoc Subcommittees*. Members of task force, ad hoc committees and subcommittees shall not be eligible for stipends unless specific exception is made by the Oneida Business Committee or the Oneida General Tribal Council.

#### 105.14. Confidential Information

- 105.14-1. All members of an entity shall maintain in a confidential manner all information obtained through their position on the entity. The Nation requires that all members of an entity who have access to the Nation's confidential information be subject to specific limitations in order to protect the interest of the Nation and ensure that no persons engaged in by the Nation, nor their relatives or associates, benefit from the use of confidential information.
  - (a) Confidential information shall be considered and kept as the private and privileged records of the Nation and will not be divulged to any person, firm, corporation, or other entity except by direct written authorization of the Oneida Business Committee.
  - (b) A member of an entity will continue to treat as private and privileged any confidential information, and will not release any such information to any person, firm, corporation, or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Oneida Business Committee, and the Nation shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information. Such restriction continues after termination of the relationship with the

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Nation and the entity.

- (c) Upon completion or termination of his or her elected or appointed term of membership in an entity, for any cause whatsoever, the member of the entity will surrender to the Nation, in good condition, all records kept by the member of the entity.
- (d) No member of an entity shall disclose confidential information acquired by reason of his other relationship or status with the Nation for his or her personal advantage, gain, or profit, or for the advantage, gain, or profit of a relative or associate.
- 105.14-2. Any records created or obtained while as an official of an entity are the property of the Nation and shall only be removed or destroyed by approval from a majority vote of the entity at a duly called meeting. All removal or destruction of documents shall be made in accordance with the Nation's laws and policies governing open records and open meetings.
- 105.14-3. Official Oneida Nation E-mail Address. Each member of an entity shall be provided an official Oneida e-mail address upon election or appointment for the purpose of conducting business of the entity electronically.
  - (a) If a member is also an employee of the Nation, he or she shall receive a separate email address from his or her regular work e-mail address.
  - (b) A member of an entity shall have thirty (30) days upon election or appointment to an entity to activate his or her official e-mail address.
  - (c) An individual who holds a position as an ad hoc or alternate member of an entity shall be exempt from the requirement to be provided an official e-mail address, unless determined that an e-mail address is necessary for the role and responsibilities of the ad hoc or alternate member.
  - (d) A member of an entity shall sign an acknowledgment form provided by the Nation's Secretary indicating notice of the Nation's applicable computer and media related laws, policies and rules. The Nation's Secretary shall maintain a record of all such acknowledgment forms.
  - (e) A member of an entity shall exclusively use his or her official e-mail address to electronically conduct any business of the entity, and shall not use a personal or work e-mail address to electronically conduct any business of the entity.
  - (f) Immediately upon receipt of notice of an entity vacancy, the Nation's Secretary shall instruct the Management Information Systems department to disable the e-mail address for the member having vacated the position.

### 105.15. Conflicts of Interest

- 105.15-1. All members of an entity are required to adhere to the Nation's laws and policies governing conflicts of interest.
- 105.15-2. A member of an entity shall disclose a conflict of interest to the Nation's Secretary as soon as the conflict arises and update a conflict of interest disclosure form with the Nation's Secretary on an annual basis.
  - (a) Upon receiving information of a potential conflict of interest, the Nation's Secretary shall request a determination from the Oneida Law Office whether further action shall be taken by the Nation regarding the status of the official.
- 105.15-3. *Ineligibility Due to Conflicts of Interest*. Due to the potential for a real or perceived conflict of interest to exist, the following individuals shall not be eligible to serve on an appointed

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or elected entity:

- (a) political appointees;
- (b) an employee of the Nation's Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, or Intergovernmental Affairs and Communications; and
- (c) an employee who serves as a direct report to the Oneida Business Committee or General Manager.

#### 105.16. Use of the Nation's Assets

- 105.16-1. Entities shall maintain all bank accounts for the Nation's funds in the name of the Oneida Nation. Bank accounts will be reflected on the Oneida Nation's books in accordance with Generally Accepted Accounting Principles.
- 105.16-2. Each member of an entity shall comply with the system of internal accounting controls sufficient to provide assurances that:
  - (a) all transactions are executed in accordance with management's authorization; and
  - (b) access to assets is permitted only in accordance with management's authorization; and
  - (c) all transactions are recorded to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or other applicable criteria.
- 105.16-3. Any evidence of noncompliance with any policy regarding the use of tribal assets shall be immediately reported to the Internal Audit department. If the Internal Audit department finds evidence of noncompliance they shall notify the Oneida Law Office, who will then make a determination of further action to be taken, if any.

#### 105.17. Dissolution of an Entity

- 105.17-1. *Dissolution of a Task Force or Ad Hoc Committee*. A task force or ad hoc committee dissolves upon a set date or acceptance of a final report. Unless otherwise indicated, the materials generated by a task force or ad hoc committee shall be forwarded to the Business Committee Support Office for proper disposal within two (2) weeks of the dissolution.
- 721 105.17-2. *Dissolution of an Entity*. All other entities of the Nation shall be dissolved only by motion of the Oneida General Tribal Council or the Oneida Business Committee.
- 723 105.17-3. *Notice of Dissolution*. Within five (5) business days of the Oneida General Tribal Council or the Oneida Business Committee taking official action to dissolve an entity, the Oneida Business Committee shall provide the entity written notice of the dissolution.
  - 105.17-4. *Management of Records and Materials*. All chairpersons and secretaries of dissolved entities shall be responsible for closing out open business of the entity and forwarding all materials and records to the Business Committee Support Office for proper storage and disposal within two (2) weeks of dissolution. The entity shall not alter or destroy any records. The Business Committee Support Office may utilize the assistance of the Records Management Department and/or any other appropriate department for the storage and disposal of the records and materials.
    - (a) The entity may request the Oneida Business Committee to grant a one (1) week extension of the time allowed to close out open business of the entity and forward all materials and records to the Business Committee Support Office.

#### 105.18. Enforcement

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737 105.18-1. Any member of an entity found to be in violation of this law may be subject to: (a) sanctions and penalties in accordance with any laws or policies of the Nation governing 738 739 sanctions and/or penalties; (b) removal pursuant to any laws or policies of the Nation's governing removal, if the 740 individual is a member of an elected entity; or 741 (c) termination of appointment by the Oneida Business Committee, if the individual is a 742 743 member of an appointed entity. 744 End. **748** 747 748 Adopted - BC-08-02-95-A 749 Amended - BC-05-14-97-F 750 Emergency Amended - BC-04-12-06-JJ 751 Amended - BC-09-27-06-E (permanent adoption of emergency amendments) 752 Amended - BC-09-22-10-C 753 Amended - BC-09-26-18-C 754 Emergency Amended – BC-03-11-20-B 755 Emergency Amended – BC-03-17-20-C 756 Amended – BC- - - -757 758

# FINANCE ADMINISTRATION Fiscal Impact Statement

# **MEMORANDUM**

TO: Lawrence Barton, Chief Financial Officer

FROM: RaLinda Ninham-Lamberies, Assistant Chief Financial Officer

DATE: July 24, 2020

RE: Fiscal Impact of the Boards, Committees, and Commissions Law

**Amendments** 

I. Estimated Fiscal Impact Summary

Law: Boards, Committees, and Commissions Law Amendments  Draft 2		Draft 2	
Implementing Agency	Oneida Election Board, Or Land Claims Commission, Nation Commission on Ag Oneida Trust Enrollment C Centered Care Community Board, Oneida Environment Arts Board, Oneida Person Commission, Oneida Pow Veterans Affairs Committee Screening committee, South Advisory Board.	Oneida Land Comming, Oneida Nation Scommittee, Anna John Board, Oneida Commital Resource Board, nel Commission, One Wow Committee Onee, Pardon and Forgive	ission, Oneida School Board, n Resident t munity Library Oneida Nation eida Police eida Nation veness
Estimated time to comply	10 days, in compliance wit	h the Legislative Pro	cedures Act
Estimated Impact	Current Fiscal Year	10 Year Es	stimate
<b>Total Estimated Fiscal Impact</b>	Indeterminate	Indeterminate	

# II. Background

## A. Legislative History

This law was adopted by the Oneida Business Committee by resolution BC 05-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, BC-09-26-18-C, BC-03-11-20-B, and BC-03-17-20-C.

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# B. Summary of Content

The amendment allows the Business Committee Support Office to repost a vacancy for an additional time period if insufficient applications are received, request additional time for the Oneida Business Committee to compile application, summarize qualifications, or results of investigations. The Business Committee Support Office shall have official budgetary sign off for all boards, committees, and commissions after formal approval of a purchase by the board, committee, or commission.

The amendment provides a deadline the deadline for the recommendation for appointment by the Chair of an entity shall be the submission deadline for the Oneida Business Committee meeting. The amendment provides that all appointed and elected positions are official after taking an oath during a regular or special Oneida Business Committee meeting or a time and location determined by the Secretary where a quorum of the Oneida Business Committee members are present. The amendment reinstates the requirement that boards, committees, or commission audio record all meetings.

The amendment provides clarification that the use of a proxy to respond to e-poll requests shall not be allowed.

The amendment provides more flexibility in the payment and frequency of stipends for attending board, committee or commission meetings. An appointed entity may be eligible for up to 12 meeting stipends per fiscal year and an elected entity may be eligible for up to 24meeting stipends per fiscal year.

The amendment provides clarification on eligibility of stipends and allowable methods of attendance for joint meetings.

The amendment designates attendance at conference and trainings shall be eligible for a stipend when attendance is required by law, by-law, or resolution.

The amendment specifies the member of an entity shall have thirty (30) days to activate the official email address.

The amendment specifies employees of Internal Audit Department, Finance Administration, Law Office, Business Committee Support Office, Intergovernmental



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Affairs, Communications, and direct reports of the Oneida Business Committee are ineligible to be on boards, committees, or commissions due a real or perceived conflict of interest.

# III. Methodology and Assumptions

A "Fiscal Impact Statement" means an estimate of the total identifiable fiscal year financial effects associated with legislation and includes startup costs, personnel, office, documentation costs, as well as an estimate of the amount of time necessary for an agency to comply with the Law after implementation.

Finance does NOT identify the source of funding for the estimated cost or allocate any funds to the legislation.

The analysis was completed based on the information provided as of the date of this memo.

# IV. Agency

There are no startup, personnel, office or documentation costs associated with this legislation. The amendments will become effective 10 days from adoption.

# V. Financial Impact

The financial impact of the amendments is indeterminate.

#### VI. Recommendation

Finance Department does not make a recommendation regarding course of action in this matter. Rather, it is the purpose of this report to disclose potential financial impact of this legislation, so that the Oneida Business Committee and General Tribal Council has the information with which to render a decision.



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# **Oneida Business Committee Agenda Request**

Adopt resolution entitled Amended Boards, Committees, and Commissions Law Stipends

1. Meeting Date Requested: 8 / 12 / 20	
2. General Information:	
Session:   Open   Executive - See instructions for the applicable laws, then choose one:	
Agenda Header: Resolutions	
☐ Accept as Information only	
Action - please describe:	
Adopt the resolution titled, "Amended Boards, Committees, and Commissions Law Stipends"	
3. Supporting Materials	
<ul><li>☐ Report</li><li>☒ Resolution</li><li>☐ Contract</li><li>☒ Other:</li></ul>	
1. Statement of Effect 3.	
2 4	
☐ Business Committee signature required	
4. Budget Information	
☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted	
5. Submission	
5. Submission	
Authorized Sponsor / Liaison: David P. Jordan, Councilmember	
Authorized Sponson / Elaison.	
Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney	
Your Name, Title / Dept. or Tribal Member	
Additional Requestor:	
Name, Title / Dept.	
Additional Requestor:	
Name, Title / Dept.	

**Public Packet** 

# **Oneida Nation**

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

1 2		BC Resolution # Amended Boards, Committees, and Commissions Law Stipends
3 4 5	WHEREAS,	the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
6 7	WHEREAS,	the Oneida General Tribal Council is the governing body of the Oneida Nation; and
8 9 10	WHEREAS,	the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
11 12 13 14	WHEREAS,	the Boards, Committees, and Commissions law ("the Law") was adopted by the Oneida Business Committee through resolution BC-05-14-97-F and amended by resolutions BC-09-27-06-E, BC-09-22-10-C, BC-09-26-18-C, and BC; and
15 16 17 18	WHEREAS,	the Law provides stipends paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for the board, committee, or commission for the betterment of the Nation; and
20 21 22	WHEREAS,	the Law requires the Oneida Business Committee to set stipend amounts by resolution; and
23 24 25 26	WHEREAS,	the Oneida Business Committee is required to periodically review the amounts provided for stipends and, based on the availability of funds, shall adjust those amounts accordingly by amending this resolution; and
27 28 29 30 31	WHEREAS,	on September 26, 2018, the Oneida Business Committee adopted resolution BC-09-26-18-D titled, "Boards, Committees, and Commissions Law Stipends" which set forth the specific stipend amounts allowed to be paid to a member of a board, committee, or commission; and
32 33 34 35 36	WHEREAS,	on May 8, 2019, the Oneida Business Committee adopted resolution BC-05-08-19-B titled, "Amending Resolution BC-09-26-18-D Boards, Committees, and Commissions Law Stipends" to allow the Oneida Nation School Board to be eligible to receive a stipend for participating in interviews and/or job description prescreens; and
37 38 39 40 41 42	WHEREAS,	on March 17, 2019, the Oneida Business Committee adopted resolution BC-03-27-20-D titled, "Amending Resolution BC-05-08-19-B Boards, Committees, and Commissions Law Stipends" to reflect emergency amendments that were made to the Law through resolution BC-03-17-20-C to address the requirements of holding stipend eligible meetings during the COVID-19 pandemic by providing that the meeting stipend limitation for appointed entities would be revised from up to "one (1) stipend per month" to up to "twelve (12) stipends per

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BC Resolution #\_\_\_\_\_ Amended Boards, Committees, and Commissions Law Stipends Page 2 of 3

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year," and for elected entities revised from up to "two (2) stipends per month" to up to "twenty-four (24) stipends per year"; and

whereas, the Legislative Operating Committee adopted the emergency amendments to the Law setting the limitation on meeting stipends per fiscal year, instead of per month, on a permanent basis through resolution BC-\_\_-\_\_; and

**NOW THEREFORE BE IT RESOLVED,** that the Oneida Business Committee sets forth the following stipend amounts allowed to be paid to a member of a board, committee, or commission of the Nation:

- 1. *Meetings of a Board, Committee, or Commission of the Nation*. A member of a board, committee, or commission of the Nation shall receive a stipend for attending a duly called meeting of the board, committee, or commission in accordance with the Law.
  - a. Appointed Boards, Committees, and Commissions. A member of an appointed board, committee, or commission of the Nation shall receive a stipend of seventy-five dollars (\$75) for a duly called meeting of the board, committee, or commission for up to twelve (12) meetings per fiscal year.
    - i. Appointed boards, committees, and commissions of the Nation include the following:
      - 1. Anna John Resident Centered Care Community Board;
      - 2. Oneida Community Library Board;
      - 3. Environmental Resource Board:
      - 4. Oneida Nation Arts Board;
      - 5. Oneida Nation Veterans Affairs Committee;
      - 6. Oneida Personnel Commission;
      - 7. Oneida Police Commission;
      - 8. Oneida Pow-wow Committee:
      - 9. Pardon and Forgiveness Screening Committee; and
      - 10. Southeastern Oneida Tribal Services Advisory Board.
  - b. *Elected Boards, Committees, and Commissions.* A member of an elected board, committee, or commission of the Nation shall receive a stipend of one hundred dollars (\$100) for a duly called meeting of the board, committee, or commission for up to twenty-four (24) meetings per fiscal year.
    - i. Elected boards, committees, and commissions of the Nation include the following:
      - 1. Oneida Nation Commission on Aging;
      - 2. Oneida Election Board:
      - 3. Oneida Land Claims Commission:
      - 4. Oneida Land Commission;
      - 5. Oneida Nation School Board;
      - 6. Oneida Trust Enrollment Committee; and
      - 7. Oneida Gaming Commission;
        - a. Although the Oneida Gaming Commission is an elected commission of the Nation, the Oneida Nation Gaming Ordinance provides that the compensation of Oneida Nation Gaming Commissioners is not subject to the Nation's Boards, Committees, and Commissions law.
- 2. Joint Meetings with the Oneida Business Committee. A member of a board, committee, or commission of the Nation shall receive a stipend for attending a duly called joint meeting between

BC Resolution # \_\_\_\_\_ Amended Boards, Committees, and Commissions Law Stipends Page 3 of 3

 the board, committee, or commission and the Oneida Business Committee in accordance with the Law.

a. Appointed Boards, Committees, and Commissions. A member of an appointed board, committee, or commission of the Nation shall receive a stipend of seventy-five dollars (\$75) for a duly called joint meeting.

b. *Elected Boards, Committees, and Commissions*. A member of an elected board, committee, or commission of the Nation shall receive a stipend of one hundred dollars (\$100) for a duly called joint meeting.

 3. Oneida Judiciary Hearings. A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for attending a hearing of the Oneida Judiciary if the member's attendance at the hearing is required by official subpoena.

4. Hearings of a Board, Committee, or Commission of the Nation. A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for conducting an official hearing of the board, committee, or commission.

Miscellaneous Stipends. The Oneida Business Committee shall have the discretion to determine any other stipends deemed appropriate.

 a. Pow-wow Activities. A member of the Oneida Pow-wow Committee shall receive a stipend of twenty-five dollars (\$25) per hour for services he or she provides during each Pow-wow, not to exceed two hundred dollars (\$200) per day, contingent upon available budgeted funds.

b. Election Activities. A member of the Oneida Election Board shall receive a stipend of twenty-five dollars (\$25) per hour, not to exceed two hundred dollars (\$200) per day, contingent upon available budgeted funds, for services he or she provides during an election including, but not limited to, managing the polling sites, recounts, and lot drawings.

c. General Tribal Council Meetings. A member of the Oneida Election Board shall receive a stipend of one hundred dollars (\$100) for attendance and service provided at a General Tribal Council meeting of the Nation.

d. Interviews and Job Selection Pre-Screening. A member of the Oneida Personnel Commission and/or the Oneida Nation School Board shall receive a stipend of twenty-five dollars (\$25) for up to four (4) hours of participating in interviews and/or job description prescreens, and a stipend of fifty dollars (\$50) for more than four (4) hours of participating in interviews and/or job description pre-screens.

6. Conferences and Training. A member of a board, committee, or commission of the Nation shall receive a stipend of fifty dollars (\$50) for up to four (4) hours of attendance at a conference or training that is required by law, bylaw, or resolution, or a stipend of one hundred dollars (\$100) for more than four (4) hours of attendance at a conference or training that is required by law, bylaw, or resolution.

**BE IT FINALLY RESOLVED**, that this resolution is hereby adopted and shall become effective on August 26, 2020.



# Oneida Nation Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54:455-0365



#### Statement of Effect

Amended Boards, Committees, and Commissions Law Stipends

# Summary

This resolution sets forth specific stipend amounts allowed to be paid to a member of a board, committee, or commission of the Nation.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: July 30, 2020

## Analysis by the Legislative Reference Office

The Boards, Committees, and Commissions law ("the Law") was adopted by the Oneida Business Committee for the purpose of governing boards, committees, and commissions of the Nation, including the procedures regarding the appointment and election of persons to boards, committees and commissions, creation of bylaws, maintenance of official records, compensation, and other items related to boards, committees and commissions. [1 O.C. 105.1-1].

Stipends are paid by the Oneida Nation to a person serving on a board, committee, or commission of the Nation in order to compensate the individual for his or her contribution of time, effort, and work for his or her board, committee, or commission for the betterment of the Nation. [1 O.C. 105.3-1(n)].

The Law requires that the Oneida Business Committee set stipend amounts by resolution. [1 O.C. 105.13-2]. On September 26, 2018, the Oneida Business Committee adopted resolution BC-09-26-18-D titled, "Boards, Committees, and Commissions Law Stipends" which set forth the specific amounts for the various stipends a member of a board, committee, or commission may be eligible to receive.

The Oneida Business Committee is delegated the responsibility to periodically review the amounts provided for stipends, and based on the availability of funds, adjust those amounts accordingly by amending the stipend resolution. [1 O.C. 105.13-2].

On May 8, 2019, the Oneida Business Committee adopted resolution BC-05-08-19-B titled, "Amending Resolution BC-09-26-18-D Boards, Committees, and Commissions Law Stipends" to allow the Oneida Nation School Board to be eligible to receive a stipend for participating in interviews and/or job description prescreens.

On March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-D titled, "Amending Resolution BC-05-08-19-B Boards, Committees, and Commissions Law Stipends" to reflect emergency amendments that were made to the Law through resolution BC-03-17-20-C to address the requirements of holding stipend eligible meetings during the COVID-19 pandemic. The emergency amendments to the Law provided that the meeting stipend limitation for appointed

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entities would be revised from up to "one (1) stipend per month" to up to "twelve (12) stipends per year," and for elected entities revised from up to "two (2) stipends per month" to up to "twentyfour (24) stipends per year."

The Oneida Business Committee will consider the adoption of permanent amendments to the Boards, Committees, and Commissions law on August 12, 2020. This resolution provides that the Legislative Operating Committee has reviewed this resolution and provided revisions to be consistent with the most recent amendments to the Law. This resolution adjusts the meeting stipend limitation for appointed entities from up to "one (1) stipend per month" to up to "twelve (12) stipends per fiscal year," and for elected entities from up to "two (2) stipends per month" to up to "twenty-four (24) stipends per fiscal year."

This resolution also changes how the stipend for conferences and trainings will be calculated to be consistent with amendments made to the Law. Previously, a member of a board, committee, or commission of the Nation was eligible to receive a stipend of one hundred dollars (\$100) per day for attendance at a conference or training that is required by law, bylaw, or resolution. This resolution provides that a member of a board, committee, or commission of the Nation is eligible to receive a stipend of fifty dollars (\$50) for up to four (4) hours of attendance at a conference or training that is required by law, bylaw, or resolution, or a stipend of one hundred dollars (\$100) for more than four (4) hours of attendance at a conference or training that is required by law, bylaw, or resolution.

#### Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws. 1

A good mind. A good heart. A strong fire.

<sup>&</sup>lt;sup>1</sup> Other Actions to Note When Discussing Stipends of Boards, Committees, and Commissions:

<sup>-</sup> Resolution BC-04-08-20-B placed many boards, committees, and commissions into temporary closure status for the remainder of Fiscal Year 2020 and during any continuing resolution for Fiscal Year 2021. Any board, committee, or commission placed into temporary closure status is not eligible to receive stipends.

<sup>-</sup> Through resolution BC-04-08-20-C the Oneida Business Committee adopted Tier V budget reductions from the Budget Contingency Plan beginning immediately in accordance with the Budget Management and Control law. Tier V budget reductions include a five percent (5%) mandatory cut across the Nation and a reduction of funding to essential services only. The Tier V Budget reductions may affect a board, committee, or commission's ability to collect a stipend.

**Public Packet** 

# **Oneida Business Committee Agenda Request**

Adopt resolution entitled Emergency Adoption of the Oneida General Welfare Law

1. Meeting Date Requested: 8 / 6 / 20	
2. General Information: Session:   ○ Open  ○ Executive - See instructions for the applicable laws, then choose one:	
Agenda Header: Resolutions	
☐ Accept as Information only	
Adopt the resolution titled, "Emergency Adoption of the Oneida General Welfare Law"	
- aspendent and an analysis of the second and an area and ar	
3. Supporting Materials  ☐ Report ☐ Resolution ☐ Contract	
<ul><li>☐ Report</li><li>☒ Resolution</li><li>☐ Contract</li><li>☒ Other:</li></ul>	
1. Emergency Adoption Packet 3.	
2 4	
☐ Business Committee signature required	
4. Budget Information	
☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted	
5. Submission	
Authorized Sponsor / Liaison: David P. Jordan, Councilmember	
Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney  Your Name, Title / Dept. or Tribal Member	
Additional Requestor:	
Name, Title / Dept.	
Additional Requestor:	
Name, Title / Dept.	





# Oneida Nation Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54155-0369



TO: Oneida Business Committee

FROM: David P. Jordan, LOC Chairperson

DATE: August 6, 2020

RE: Emergency Adoption of the Oneida General Welfare Law

Please find the following attached backup documentation for your consideration of the emergency adoption of the Oneida General Welfare law:

1. Resolution: Emergency Adoption of the Oneida General Welfare Law

- 2. Statement of Effect: Emergency Adoption of the Oneida General Welfare Law
- 3. Oneida General Welfare Law Legislative Analysis
- 4. Oneida General Welfare Law

#### Overview

Emergency adoption of an Oneida General Welfare law (the "Law") is being sought to create a law that provides a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The purpose of this Law is to provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2].

In response to the outbreak of the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and provided the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.

On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Core Decision Making Team issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, a "Safer at Home Declaration, Amendment, Open for Business"

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declaration was issued which directed that individuals within the Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons. The COVID-19 Core Decision Making Team most recently issued a "Stay Safer at Home" declaration on June 10, 2020, which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions

The Oneida Business Committee is delegated the authority to temporarily enact emergency legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the adoption of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

The emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency adoption of this Law will assist in addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation to establish and operate approved programs that may provide assistance to Tribal members on a non-taxable basis.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this Law would be contrary to public interest since the Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be adopted to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

The Law will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. There will be one (1) opportunity to extend the emergency adoption of this Law for an additional six (6) month period. [1 O.C. 109.9-5(b)].

## **Requested Action**

Approve the Resolution: Emergency Adoption of the Oneida General Welfare Law



# **Oneida Nation**

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

# BC Resolution # Emergency Adoption of the Oneida General Welfare Law

1 2 3	WHEREAS,	the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
4	WHEREAS,	the Oneida General Tribal Council is the governing body of the Oneida Nation; and
5 6 7 8 9 10 11 12	WHEREAS,	the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
	WHEREAS,	the federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
14 15 16 17	WHEREAS,	state governors, including the State of Wisconsin, declared public health emergencies and state public health officers issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37	WHEREAS,	on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses; and
	WHEREAS,	the Nation's Public Health State of Emergency has since been extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A; and
	WHEREAS,	on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed; and
	WHEREAS,	the COVID-19 Core Decision Making Team has issued subsequent declarations modifying the "Safer at Home" declaration including the April 21, 2020 "Updated Safer at Home" declaration, the May 19, 2020, "Safer at Home Declaration, Amendment, Open for Business" declaration, and the June 10, 2020, "Stay Safer at Home" declaration; and
38 39 40 41	WHEREAS,	the Oneida General Welfare law ("the Law") is being proposed for emergency adoption in an effort to provide a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic; and
42 43	WHEREAS,	the purpose of the Law is to provide assistance, on a non-taxable basis, to Tribal members through approved programs that promote the general welfare of the Nation; and

**WHEREAS**, 46

WHEREAS.

WHEREAS,

WHEREAS,

the Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment; and

the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the adoption of the legislation is required sooner than would be possible under the Legislative Procedures Act; and

**WHEREAS,** emergency adoption of legislation is effective for a period of six (6) months, renewable by the Oneida Business Committee for an additional six (6) month term; and

the emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population, as the Law shall assist in addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation to establish and operate approved programs that may provide assistance to Tribal members on a non-taxable basis; and

observance of the requirements under the Legislative Procedures Act for adoption of this Law would be contrary to public interest since the Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be adopted to best assist members of the Nation during this COVID-19 pandemic; and

**WHEREAS,** the Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation; and

**NOW THEREFORE BE IT RESOLVED,** the Oneida Business Committee hereby adopts, on an emergency basis, the Oneida General Welfare law effective immediately.

**BE IT FINALLY RESOLVED,** the Oneida Business Committee hereby approves the creation of "Title 10. General Welfare Exclusion" in the Code of Laws and directs that the Oneida General Welfare law be codified under this Title as Chapter 1001.





# Oneida Nation Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54155-0365



#### Statement of Effect

Emergency Adoption of the Oneida General Welfare Law

## Summary

This resolution adopts an Oneida General Welfare law on an emergency basis in order to provide assistance, on a non-taxable basis, to Tribal members through approved programs that promote the general welfare of the Nation.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: August 5, 2020

# Analysis by the Legislative Reference Office

This resolution adopts the Oneida General Welfare law ("the Law") on an emergency basis. The purpose of the Law is to provide assistance, on a non-taxable basis, to Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2].

The Legislative Procedures Act ("the LPA") was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5]. A public meeting and fiscal impact statement are not required for emergency legislation. [1 O.C. 109.8-1(b),109.9-5(a)].

In response to the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" regarding COVID-19. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team ("COVID-19 Team"). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the

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Nation's laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.10-2]. These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].

On March 24, 2020, the Nation's COVID-19 Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, a "Safer at Home Declaration, Amendment, Open for Business" declaration was issued which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could reopen under certain safer business practices, and social distancing should be practiced by all persons. The COVID-19 Making Team most recently issued a "Stay Safer at Home" declaration on June 10, 2020, which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

The resolution provides that the emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population. The emergency adoption of this Law will assist in addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation to establish and operate approved programs that may provide assistance to Tribal members.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this amendment would be contrary to public interest. The Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be adopted to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.

The emergency adoption of this the Law will take effect immediately upon adoption by the Oneida Business Committee. The emergency adoption of the Law will remain effective for six (6) months. The LPA provides the possibility to extend the emergency amendments for an additional six (6) months, or until the emergency amendments expire or are permanently adopted. [1 O.C. 109.9-5(b)].

#### **Conclusion**

Adoption of this resolution would not conflict with any of the Nation's laws.



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## EMERGENCY ADOPTION OF THE ONEIDA GENERAL WELFARE LAW LEGISLATIVE ANALYSIS

#### **SECTION 1. EXECUTIVE SUMMARY**

Analysis by the Legislative Reference Office		
Intent of the Proposed Law	Set a framework and provide guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2].	
Purpose	Provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3].	
Affected Entities	Oneida Business Committee, Approved Programs	
<b>Public Meeting</b>	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].	
Fiscal Impact	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].	
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.	

#### **SECTION 2. LEGISLATIVE DEVELOPMENT**

- **A.** *Background*. The Oneida General Welfare law will be a new law adopted by the Nation on an emergency basis for the purpose of providing assistance, on a non-taxable basis, to Tribal members through approved programs that promote the general welfare of the Nation.
  - The Oneida Business Committee directed Inter-Governmental Affairs and Communications, Self-Governance, and the Law Office to develop a plan of action to create rules for exempting income per the Tribal General Welfare Exclusion Act. At the December 18, 2018, Oneida Business Committee work meeting, the Oneida Business Committee requested that the General Welfare Exclusions Act Income Exemptions item be sent over to the Legislative Operating Committee for consideration to develop a law that would define the income exemptions under the General Welfare Exclusion Act.
  - The Legislative Operating Committee added the General Welfare Exclusions Act Income Exemptions law to its Active Files List on January 2, 2019.
  - On August 1, 2020, the Oneida Law Office called a meeting with the Legislative Reference Office, Finance Administration, and the Parks and Recreation Department to discuss the potential adoption of an Oneida General Welfare law on an emergency basis.
  - Emergency adoption of the Oneida General Welfare law is being pursued to provide a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation,

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including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment

- **B.** *COVID-19 Pandemic*. The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses.
  - Declaration of a Public Health State of Emergency.
    - On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared the Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.
    - The Public Health State of Emergency has since been extended until August 11, 2020, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.
  - Additional Action taken by the Nation in Response to COVID-19.
    - On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team ("COVID-19 Team"). [3 O.C. 302.10].
      - When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation's laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.10-2].
      - These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].
    - On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*," which required a great reduction in expenses as a result of zero gaming revenues supporting governmental functions and included initial and on-going layoffs.
  - COVID-19 Team Declarations: Safer at Home.
    - On March 24, 2020, the Nation's COVID-19 Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed.
    - On April 21, 2020, the COVID-19 Team issued an "*Updated Safer at Home*" declaration which allowed for gaming and golf operations to resume.
    - On May 19, 2020, the COVID-19 Team issued a "Safer at Home Declaration, Amendment, Open for Business" which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons.
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• On June 10, 2020, the COVID-19 Team issued a "Stay Safer at Home" declaration which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

#### **SECTION 3. CONSULTATION AND OUTREACH**

- **A.** Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
  - Oneida Law Office;
  - Finance Administration; and
  - Governmental Services Division.

#### **SECTION 4. PROCESS**

- **B.** The adoption of this Law is being considered on an emergency basis. The Oneida Business Committee may temporarily enact an emergency law "where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law." [1 O.C. 109.9-5].
  - Emergency adoption of this Law is being pursued for the preservation of the general welfare of the Reservation population. The emergency adoption of this Law will assist in addressing the economic needs of the Reservation population during the public health crisis that is the COVID-19 pandemic by allowing the Nation to establish and operate approved programs that may provide assistance to Tribal members on a non-taxable basis.
  - Observance of the requirements under the Legislative Procedures Act for the adoption of this Law would be contrary to public interest. The Nation is currently experiencing the vast effects of the COVID-19 pandemic, and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Law can be adopted to best assist members of the Nation during this COVID-19 pandemic through the development of approved programs which provide assistance to Tribal members.
- C. Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency legislation. [1 O.C. 109.9-5(b)].
- **D.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of this Law.
- **D.** The following work meetings were held regarding the development of this law and legislative analysis:
  - August 3, 2020: Work meeting with Oneida Law Office, Finance Administration, and Parks and Recreation Department; and
  - August 4, 2020. LOC work meeting.

#### **SECTION 5. CONTENTS OF THE LEGISLATION**

**A.** *Purpose and Policy*. The Nation has an inherent sovereign right to provide assistance to its eligible Tribal members on a non-taxable basis. [10 O.C. 1001.1-1]. This inherent sovereign right has been recognized by the federal government through the Tribal General Welfare Exclusion Act of 2014, and the Internal Revenue Service, through its traditional application of the general welfare doctrine and subsequent guidance. This Law provides a framework for the Nation to create approved programs that

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will provide assistance to Tribal members that ensures compliance with the General Welfare Exclusion, and applicable Internal Revenue Service regulations. The intent of this Law is that all assistance provided under this law: is available to any recipients who satisfies the program policies, subject to budgetary restraints; is made under an approved program that does not discriminate in favor of members of the Nation's governing body; is not provided as compensation for goods and/or services; and is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee. [10 O.C. 1001.1-3].

- *Effect*. The overall purpose of this Law is to codify the Nation's sovereign right to provide assistance to Tribal members on a non-taxable basis, and to provide a framework for the Nation to create approved programs to do so.
- **B.** Ratification of Prior Acts. The proposed Law provides that it shall not be construed as creating new general welfare assistance rights which are an inherent right of Nation, but rather, this Law is intended to codify existing procedures used by the Nation to administer its general welfare assistance. [10 O.C. 1001.4-1]. The Law clarifies that assistance provided prior to the enactment of this Law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty. [10 O.C. 1001.4-2].
  - Effect. The Nation has always possessed the inherent sovereign right to provide general welfare assistance to eligible Tribal members on a non-taxable basis, this Law simply codifies existing procedures used by the Nation to administer its general welfare assistance. The codification of procedures results in greater transparency, and consistency.
- **B.** General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General Welfare Exclusion of 2014. This section looks at various federal policies that recognize the Nation's sovereign right to provide assistance to its members on a non-taxable basis. This section clarifies that without limitation benefits shall be treated as non-taxable if they meet certain requirements contained in the Law. [10 O.C. 1001.5-6].
  - Effect. Benefits authorized by this law are intended to qualify non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.
- C. Non-Recourse Designation. The Nation does not guarantee any benefits to a recipient under this Law. [10 O.C. 1001.6-1]. The Law clarifies that benefits shall not be treated as a resource or asset of a recipient for any purpose; and that no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. Id. The Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. Id. The approved programs shall be administered at all times to avoid triggering of the doctrines of "constructive receipt" and/or "economic benefit."
  - Effect. This section clarifies that recipient is guaranteed benefits under the Law, and that a recipient should not treat the potential benefit as a resource or an asset until that asset is actually paid out to the recipient.
- **D.** Governing Law; Sovereignty. The Law confirms the Nation's sovereign status by providing that the rights and liabilities associated with the enactment of this law, or any assistance made as a result, shall be construed and enforced according to the Nation's laws and applicable federal law. [10 O.C. 1001/7-1]. The Law, or any related laws, policies, or procedures adopted for its implementation shall not be construed to make applicable to the Nation any laws or regulations which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption because of its sovereign status. Id.
  - *Effect.* The Nation is considered sovereign, meaning it has the authority to govern itself. This section of the Law confirms that the Nation maintains that sovereign status through the adoption of

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- this Law, and the Nation is not subject to any laws or regulations which are otherwise inapplicable to the Nation.
  - **E.** Federal Trust Obligations. The Law provides that the Nation has the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. [10 O.C. 1001.8-1]. This does not mean that the Nation's adoption of its approved programs is intended to relieve or diminish the federal government of its funding and trust responsibilities. Id.
    - Effect. This section provides that although the Nation may provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants, this does not negate the federal government's trust responsibilities to fund this program. This also does not affect the Nation's right to seek funding, or the right to engage in government to government consultations and coordination in regard to these rights.
  - **F.** Approved Program Guidelines. This section of the Law sets forth guidelines for approved programs of the Nation to be created under. The Oneida Business Committee is responsible for designating approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this Law and the principles of the General Welfare Exclusion as to purpose, eligibility, and funding. [10 O.C. 1001.9-1]. An approved program shall be established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, selfsufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2]. Any assistance intended to qualify under the General Welfare Exclusion is limited to Tribal members only. [10 O.C. 1001.9-3]. Each approved program is required to set forth the specific eligibility rules and limitations that will be applied to that program. Id. Programs comprising descriptions, including eligibility rules and limitations, may be presented to the Oneida Business Committee for approval, Id. Programs that are approved by the Oneida Business Committee are considered to be in force and effect. All assistance that is provided to a recipient is required to be used for the purpose stated in the approved program description. [10 O.C. 1001.9-4]. If a recipient uses assistance in a manner that is inconsistent with the purpose of the approved program, then the payment is considered forfeited and the Nation may secure repayment from the recipient. Id. Any benefit a Tribal member receives is not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal member. [10 O.C. 1001.9-5].
    - *Effect*. This section of the Law provides details on the framework for how approved programs under the Law are developed and handled.

#### **SECTION 6. EXISTING LEGISLATION**

- **A.** *Related Legislation*. The following laws of the Nation are related to this Law:
  - Legislative Procedures Act. The Legislative Procedures Act was adopted by the General Tribal Council on January 7, 2013, for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
    - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the

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enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].

■ The Legislative Operating Committee is responsible for first reviewing the

Business Committee for consideration. [1 O.C. 109.9-5(a)].

The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].

emergency legislation and for forwarding the legislation to the Oneida

- a. A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
- Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
- Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
- Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
- Emergency adoption of this Law would conform with the requirements of the Legislative Procedures Act.

#### **SECTION 7. OTHER CONSIDERATIONS**

- **A.** *Deadline for Permanent Adoption of Legislation.* The emergency adoption of this Law will expire six (6) months after adoption. The emergency legislation may be renewed for an additional six (6) month period.
  - Conclusion: The Legislative Operating Committee will need to consider the development and adoption of this Law on a permanent basis within the next six (6) to twelve (12) months.
- **B.** Creation of Title 10 General Welfare Exclusion in the Code of Laws. Upon adoption of this Law the Oneida Business Committee is also approving the creation of a new title in the Code of Laws. "Title 10. General Welfare Exclusion" will be added to the Code of Laws. This Law shall be codified under Title 10, as well as any future laws regarding approved programs for assistance for Tribal members.
  - *Conclusion*: The Legislative Operating Committee should be aware that Title 10. General Welfare Exclusion is being created so it may be used for future legislation.
- C. Oneida Higher Education Pandemic Relief Fund Law. The Legislative Operating Committee is also working on the development of an Oneida Higher Education Pandemic Relief Fund law to be considered by the Oneida Business Committee on an emergency basis. The Oneida Higher Education Pandemic Relief Fund law will create the Oneida Higher Education Pandemic Relief Fund to assist

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238	eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term.
239	• Conclusion. This Law sets the framework for approved programs, like the Oneida Higher
240	Education Pandemic Relief Fund law, to be developed and operated to provide assistance to Tribal
241	members.

242 **D.** Fiscal Impact. A fiscal impact statement is not required for emergency legislation.

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244 245 ■ Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except emergency legislation [1 O.C. 109.6-1].

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#### Title 10. General Welfare Exclusion - Chapter 1001 ONEIDA GENERAL WELFARE

1001.1. Purpose and Policy1001.6. Non-Recourse Designation1001.2. Adoption, Amendment, Repeal1001.7. Governing Law; Sovereignty1001.3. Definitions1001.8. Federal Trust Obligations1001.4. Ratification of Prior Acts1001.9. Approved Program Guidelines1001.5. General Welfare Doctrine and IRS Revenue Procedure

2014-53/ Tribal General Welfare Exclusion of 2014

#### 1001.1. Purpose and Policy

- 2 1001.1-1. *Purpose*. The purpose of this law is to provide assistance to eligible Tribal members.
- 3 The Nation affirms hereby its sovereign right to do so on a non-taxable basis, pursuant to the
- 4 principles of the General Welfare Exclusion to Indian Tribal governmental programs that provide
- 5 benefits to Tribal members.
- 6 1001.1-2. The federal government through the Tribal General Welfare Exclusion Act of 2014,
- 7 codified at 26 U.S.C §139E and the Internal Revenue Service, through its traditional application
- 8 of the general welfare doctrine and subsequent guidance, has recognized the sovereign right of
- 9 Indian tribal governments to provide financial assistance to its Tribal members under certain
- 10 circumstances on a non-taxable basis.
- 11 1001.1-3. *Policy*. It is the policy of the Nation to provide assistance to Tribal members through
- 12 approved programs that promote the general welfare of the Nation. This law provides a framework
- for approved programs to follow to ensure compliance with the General Welfare Exclusion, 26
- 14 U.S.C. §139E, and applicable Internal Revenue Service regulations or revenue procedures
- including I.R.S. Rev. Proc. 2014-35. Further, it is the intent of the Oneida Business Committee
- that all assistance provided under this law:
  - (a) is available to any recipients who satisfy the program policies, subject to budgetary restraints:
  - (b) is made under an approved program that does not discriminate in favor of members of the Nation's governing body;
  - (c) is not provided as compensation for goods and/or services; and
  - (d) is not lavish or extravagant under the facts and circumstances, as determined by the Oneida Business Committee.

#### 1001.2. Adoption, Amendment, Repeal

- 1001.2-1. This law was adopted by the Oneida Business Committee on an emergency basis by resolution - - .
- 28 1001.2-2. This law may be amended or repealed by the Oneida Business Committee or the General
- 29 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
- 30 1001.2-3. Should a provision of this law or the application thereof to any person or circumstances
- 31 be held as invalid, such invalidity shall not affect other provisions of this law which are considered
- 32 to have legal force without the invalid portions.
- 33 1001.2-4. In the event of a conflict between a provision of this law and a provision of another law,
- 34 the provisions of this law shall control.
- 35 1001.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

#### **37 1001.3. Definitions**

- 38 1001.3-1. This section shall govern the definitions of words and phrases used within this law. All
- words not defined herein shall be used in their ordinary and everyday sense.

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40 (a) "Approved program" means any program(s) to provide general welfare assistance that is intended to qualify as non-taxable as a General Welfare Exclusion, administered under specific guidelines, and is adopted as a law by resolution of the Oneida Business Committee.

- (b) "Assistance" means benefits or payments under an approved program, which are paid to or on behalf of a recipient pursuant to this law, provided, that such assistance shall be owed back to the Nation from the Tribal member recipient in the event the Tribal member misappropriates the assistance.
- (c) "Benefits" means any approved program assistance, including payments, which is provided pursuant to this law.
- (d) "General Test" means the criteria used to determine if any assistance or benefits provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:
  - (1) Paid on behalf of the Nation;
  - (2) Pursuant to an approved program;
  - (3) Does not discriminate in favor of members of the governing body of the Nation;
  - (4) Are available to any Tribal member who meets the guidelines of the approved program;
  - (5) Are for the promotion of general welfare;
  - (6) Are not lavish or extravagant;
  - (7) Are not compensation for services; and
  - (8) Are not per capita payments.
- (e) "General Welfare Exclusion" means any benefits shall be treated as non-taxable under federal law so long as it satisfies the requirements for exclusion under 26 U.S.C. §139E, is provided under a Safe Harbor Program listed and detailed in I.R.S. Rev. Proc. 2014-35 or subsequent Internal Revenue Service procedures or regulations, or it meets the General Test
- (f) "General welfare need" means a need, in the sole discretion of the Oneida Business Committee, which shall be met to ensure the Nation's longevity as a self-governing Indian nation, and includes needs in the areas of health, education, self-sufficiency, self-determination, the maintenance of culture and tradition, entrepreneurship, and employment.
- (g) "Lavish" or "Extravagant" shall have the meaning determined by the Oneida Business Committee in its discretion and based on the circumstances, taking into account needs unique to the Nation as well as the social purpose being served by the particular assistance at hand, except as otherwise may be required for compliance with final guidance issued under 26 U.S.C. §139E following consultation between the Nation and the federal government.
- (h) "Nation" means the Oneida Nation.
- (i) "Recipient" means any Tribal member entitled to receive assistance in accordance with approved program requirements.
- (j) "Tribal member" means an individual who is an enrolled member of the Nation.

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#### 83 1001.4. Ratification of Prior Acts

1001.4-1. This law is not to be construed as creating new general welfare assistance rights which are an inherent right of Nation. Rather, this law is intended to codify existing procedures used by the Nation to administer its general welfare assistance.

1001.4-2. Assistance provided prior to the enactment of this law is hereby ratified and confirmed as general welfare assistance provided pursuant to the exercise by the Nation of its inherent tribal sovereignty.

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## 1001.5. General Welfare Doctrine and IRS Revenue Procedure 2014-53/ Tribal General Welfare Exclusion of 2014

- 93 1001.5-1. The federal government recognizes that benefits to recipients under an approved 94 program for the promotion of the general welfare of the Nation is excludable from the gross income 95 of those recipients.
- 96 1001.5-2. The Internal Revenue Service, through I.R.S. Revenue Procedure 2014-35, listed and detailed examples of Safe Harbor programs under which, if approved and in writing, need would be presumed, and benefits would be excluded from gross income.
- 99 1001.5-3. Benefits authorized by this law are intended to qualify non-taxable under the principles of the General Welfare Exclusion to the fullest extent permitted at law.
- 101 1001.5-4. Assistance authorized by this law shall be limited to funds appropriated, at the discretion of the Oneida Business Committee and no matter the source of the funds. All amounts budgeted by the Nation for assistance shall remain general assets of the Nation until payments are disbursed. 104 1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue
- 104 1001.5-5. Benefits are not subject to information reporting by the Nation to the Internal Revenue Service.
- 106 1001.5-6. Without limitation, the following benefits shall be treated as non-taxable hereunder:
  - (a) Benefits that satisfy the requirements for the exemption under 26 U.S.C. §139E;
  - (b) Benefits that are provided under an IRS Safe Harbor Program listed and described in I.R.S. Rev. Proc. 2014-35; or
  - (c) Benefits that qualify for exclusion under the I.R.S. General Criteria of General Welfare exclusion listed in I.R.S. Rev. Proc. 2014-35, section 5.02(1).

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#### 1001.6. Non-Recourse Designation

1001.6-1. The Nation does not guarantee benefits under this law. Benefits shall not be treated as a resource or asset of a recipient for any purpose; and no recipient shall have an interest in or right to any funds budgeted for, or set aside for, approved programs until paid. Oneida Business Committee reserves the right to cancel, adjust, modify or revoke any benefit. The approved programs shall be administered at all times to avoid triggering of the doctrines of "constructive receipt" and/or "economic benefit."

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#### 1001.7. Governing Law; Sovereignty

- 122 1001.7-1. All the rights and liabilities associated with the enactment of this law, or the assistance
- made hereunder, shall be construed and enforced according to the Nation's laws and applicable federal law. Nothing in this law or the related laws, policies, or procedures adopted for its
- implementation, if any, shall be construed to make applicable to the Nation any laws or regulations
- which are otherwise inapplicable to the Nation, or from which the Nation is entitled to exemption

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because of its sovereign status.

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#### 1001.8. Federal Trust Obligations

1001.8-1. The Nation reserves the right to provide assistance in circumstances where federal funding is insufficient to operate federal programs designed to benefit applicants and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Nation's adoption of its approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall waive the Nation's right to seek funding shortfalls or to enforce the trust rights of the Nation and its citizens. The Nation shall be entitled to government-to-government consultation and coordination with the federal government in regard to these obligations.

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#### 1001.9. Approved Program Guidelines

- 1001.9-1. *Nation Approved Programs*. The Oneida Business Committee shall designate approved programs for which funds shall be budgeted each fiscal year, consistent with the purposes of this law. Each approved program shall be consistent with the principles of the General Welfare Exclusion as to purpose, eligibility, and funding.
- 1001.9-2. *Purpose of Approved Programs*. Each approved program shall be limited to purposes consistent with treatment under the General Welfare Exclusion. An approved program shall be established and operated to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.
- 1001.9-3. *Eligibility*. Assistance intended to qualify under the General Welfare Exclusion shall be limited to Tribal members. Each approved program shall set forth the specific eligibility rules and limitations applied to that program. Programs comprising descriptions, including eligibility rules and limitations, may be presented to the Oneida Business Committee for approval in accordance with this law. Programs shall be approved by the Oneida Business Committee to be considered in force and effect and in accordance with this law.
- 155 1001.9-4. *Limited Use of Assistance Payments*. All assistance shall be used for the purpose stated 156 in the approved program description. If assistance is used or pledged for a purpose inconsistent 157 with the purpose set forth in an approved program the payment shall be deemed forfeited. The 158 Nation may secure repayment from the recipient. The Nation may seek to garnish remuneration 159 from other payments made to recipient to secure repayment of assistance under this law.
- 160 1001.9-5. *Anti-Alienation*. A Tribal member's benefit is not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment by creditors of the Tribal member.

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End.

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Emergency Adopted - BC-\_\_-\_\_-

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### **Oneida Business Committee Agenda Request**

Adopt resolution entitled Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law

1. Meeting Date Requested: <u>8</u> / <u>6</u> / <u>20</u>
2. General Information:
Session: 🗵 Open 🔲 Executive - See instructions for the applicable laws, then choose one:
Agenda Header: Resolutions
Accept as Information only
Adopt the resolution titled, "Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law"
Law
2. Currentine Metaviele
3. Supporting Materials  ☐ Report ☑ Resolution ☐ Contract
✓ Other:
1. Emergency Adoption Packet 3.
1. Lineigency Adoption racket 5.
2. 4.
Z-1
☐ Business Committee signature required
4. Budget Information
<ul><li>☐ Budgeted - Tribal Contribution</li><li>☐ Budgeted - Grant Funded</li><li>☐ Unbudgeted</li></ul>
5. Submission
Authorized Sponsor / Liaison: David P. Jordan, Councilmember
Primary Requestor/Submitter: Clorissa N. Santiago, LRO Senior Staff Attorney
Your Name, Title / Dept. or Tribal Member
Additional Requestor:
Name, Title / Dept.
Additional Requestor:
Name, Title / Dept.





Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-ns now



TO: Oneida Business Committee

FROM: David P. Jordan, LOC Chairperson

DATE: August 6, 2020

RE: Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law

Please find the following attached backup documentation for your consideration of the emergency adoption of the Oneida Higher Education Pandemic Relief Fund law:

- 1. Resolution: Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law
- 2. Statement of Effect: Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law
- 3. Oneida Higher Education Pandemic Relief Fund Law Legislative Analysis
- 4. Oneida Higher Education Pandemic Relief Fund Law

#### Overview

Emergency adoption of the Oneida Higher Education Pandemic Relief Fund law (the "Law") is being sought to create the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term. [10 O.C. 1003.1-1]. The Oneida Higher Education Pandemic Relief Fund law shall:

- Provide the guidelines and requirements for use of the Oneida Higher Education Pandemic Relief Fund [10 O.C. 1003.4];
- Describe the presumption of need and the General Test to be used to determine General Welfare Exclusion [10 O.C. 1003.5];
- Provide that the Nation allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the Coronavirus Relief Funds (CRF), and that this program is dependent on availability of funding from the CRF. [10 O.C. 1003.6].

In response to the outbreak of the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and provided the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.

On March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all

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individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Core Decision Making Team issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, a "Safer at Home Declaration, Amendment, Open for Business" declaration was issued which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons. The COVID-19 Core Decision Making Team most recently issued a "Stay Safer at Home" declaration on June 10, 2020, which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*." This resolution adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, which included five percent (5%) mandatory budget cuts across the Nation and reduction of all funding to essential services only. The Oneida Business Committee also adopted resolution BC-04-08-20-G titled, "*Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021*." This resolution provided that the General Tribal Council Higher Education Scholarship shall be reduced to five thousand dollars (\$5,000) per year.

The Oneida Business Committee is delegated the authority to temporarily enact emergency legislation when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the adoption of the legislation is required sooner than would be possible under the Legislative Procedures Act. [1 O.C. 109.9-5]. A fiscal impact statement and public meeting are not required for emergency legislation. [1 O.C. 109.9-5(a)].

The emergency adoption of the Law is necessary for the preservation of the general welfare of the Reservation population. Due to the COVID-19 pandemic many grants, scholarships, and loans were forsaken by the granting institutions or banks, and personal and family funds redirected to other needs during the ongoing Public Health State of Emergency, such as medical expenses and losses due to unemployment within the family. Emergency adoption of the Law creates an Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this Law would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund can be created for use by eligible students during the 2020 Fall Term.



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The Law will become effective immediately upon adoption by the Oneida Business Committee and will remain effective for six (6) months. There will be one (1) opportunity to extend the emergency adoption of this Law for an additional six (6) month period. [1 O.C. 109.9-5(b)].

#### **Requested Action**

Approve the Resolution: Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law



## **Oneida Nation**

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

## BC Resolution # Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law

1 2 3	WHEREAS,	the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
4 5 6 7 8 9 10 11 2 13 4 15 16 17 18 19 20 1 22 3 24 25 6 27 8 9 33 34 35 36 37 8 9 40 14 24 3	WHEREAS,	the Oneida General Tribal Council is the governing body of the Oneida Nation; and
	WHEREAS,	the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
	WHEREAS,	the federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses; and
	WHEREAS,	state governors, including the State of Wisconsin, declared public health emergencies and state public health officers issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders; and
	WHEREAS,	on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses; and
	WHEREAS,	the Nation's Public Health State of Emergency has since been extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A; and
	WHEREAS,	on March 24, 2020, the Nation's COVID-19 Core Decision Making Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed; and
	WHEREAS,	the COVID-19 Core Decision Making Team has issued subsequent declarations modifying the "Safer at Home" declaration including the April 21, 2020 "Updated Safer at Home" declaration, the May 19, 2020, "Safer at Home Declaration, Amendment, Open for Business" declaration, and the June 10, 2020, "Stay Safer at Home" declaration; and
	WHEREAS,	on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020" which adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, and included five percent (5%) mandatory budget cuts across the Nation and reduction of all funding to essential services only; and

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the Oneida Business Committee also adopted resolution BC-04-08-20-G titled, "Reducing WHEREAS, the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021" which provided that the General Tribal Council Higher Education Scholarship be reduced to five thousand dollars (\$5,000) per year; and

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WHEREAS,

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the Oneida Higher Education Pandemic Relief Fund law ("the Law") is being proposed for emergency adoption to create the Oneida Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term; and

WHEREAS, the Law provides guidelines and requirements for use of the Oneida Higher Education Pandemic Relief Fund; and

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the Law describes the presumption of need and the General Test to be used to determine WHEREAS. General Welfare Exclusion; and

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the Law provides that the Nation allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the Coronavirus Relief Funds (CRF), and that this program is dependent on availability of funding from the CRF; and

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the Legislative Procedures Act authorizes the Oneida Business Committee to enact legislation on an emergency basis when legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population, and the adoption of the legislation is required sooner than would be possible under the Legislative Procedures Act; and

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emergency adoption of legislation set to be effective for a period of six (6) months, renewable by the Oneida Business Committee for an additional six (6) month term; and

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the emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population as the COVID-19 pandemic resulted in many grants, scholarships, and loans being forsaken by the granting institutions or banks, as well as personal and family funds being redirected to other needs during the ongoing Public Health State of Emergency, such as medical expenses and losses due to unemployment within the family, therefore, emergency adoption of the Law creating an Oneida Higher Education Pandemic Relief Fund shall assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act CRF in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency; and

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observance of the requirements under the Legislative Procedures Act for adoption of this amendment would be contrary to public interest since the 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund can be created for use by eligible students during the 2020 Fall Term; and

WHEREAS. the Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation; and

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NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee hereby adopts, on an emergency basis, the Oneida Higher Education Pandemic Relief Fund law effective immediately.



## Oneida Nation Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54155-0365



#### Statement of Effect

Emergency Adoption of the Oneida Higher Education Pandemic Relief Fund Law

#### Summary

This resolution adopts the Oneida Higher Education Pandemic Relief Fund law on an emergency basis in order to create the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term. [10 O.C. 1003.1-1].

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: August 5, 2020

#### Analysis by the Legislative Reference Office

This resolution adopts the Oneida Higher Education Pandemic Relief Fund law ("the Law") on an emergency basis. The purpose of the Law is to create the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term. [10 O.C. 1003.1-1]. The Oneida Higher Education Pandemic Relief Fund law shall:

- Provide the guidelines and requirements for use of the Oneida Higher Education Pandemic Relief Fund [10 O.C. 1003.4];
- Describe the presumption of need and the General Test to be used to determine General Welfare Exclusion [10 O.C. 1003.5];
- Provide that the Nation allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the Coronavirus Relief Funds (CRF), and that this program is dependent on availability of funding from the CRF. [10 O.C. 1003.6].

The Legislative Procedures Act ("the LPA") was adopted by the General Tribal Council for the purpose of providing a process for the adoption or amendment of laws of the Nation. [1 O.C. 109.1-1]. The LPA allows the Oneida Business Committee to take emergency action where it is necessary for the immediate preservation of the public health, safety or general welfare of the reservation population and when enactment or amendment of legislation is required sooner than would be possible under the LPA. [1 O.C. 109.9-5]. A public meeting and fiscal impact statement are not required for emergency legislation. [1 O.C. 109.8-1(b) and 109.9-5(a)].

In response to the COVID-19 pandemic, on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19. [3 O.C. 302.8-1]. This declaration of a Public Health State of Emergency set into place the necessary authority should action need to be taken and allows the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. This declaration of a Public Health State of Emergency was extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.

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On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team ("COVID-19 Team"). [3 O.C. 302.10]. When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation's laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.10-2]. These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].

On March 24, 2020, the Nation's COVID-19 Team issued a "Safer at Home" declaration which prohibited all public gatherings of any number of people and ordered all individuals present within the Oneida Reservation to stay at home or at their place of residence, with certain exceptions allowed. On April 21, 2020, the COVID-19 Team issued an "Updated Safer at Home" declaration which allowed for gaming and golf operations to resume. Then on May 19, 2020, a "Safer at Home Declaration, Amendment, Open for Business" declaration was issued which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could reopen under certain safer business practices, and social distancing should be practiced by all persons. The COVID-19 Team most recently issued a "Stay Safer at Home" declaration on June 10, 2020, which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*." This resolution adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, which included five percent (5%) mandatory budget cuts across the Nation and reduction of all funding to essential services only. The Oneida Business Committee also adopted resolution BC-04-08-20-G titled, "*Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021*." This resolution provided that the General Tribal Council Higher Education Scholarship be reduced to five thousand dollars (\$5,000) per year.

The resolution provides that the emergency adoption of this Law is necessary for the preservation of the general welfare of the Reservation population. Due to the COVID-19 pandemic many grants, scholarships, and loans were forsaken by the granting institutions or banks, and personal and family funds redirected to other needs during the ongoing Public Health State of Emergency, such as medical expenses and losses due to unemployment within the family. Emergency adoption of the Law creates an Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency.

Additionally, observance of the requirements under the Legislative Procedures Act for the adoption of this amendment would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher



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Education Pandemic Relief Fund can be created for use by eligible students during the 2020 Fall Term.

The emergency adoption of this the Law will take effect immediately upon adoption by the Oneida Business Committee. The emergency adoption of the Law will remain effective for six (6) months. The LPA provides the possibility to extend the emergency amendments for an additional six (6) months, or until the emergency amendments expire or are permanently adopted. [1 O.C. 109.9-5(b)].

#### **Conclusion**

Adoption of this resolution would not conflict with any of the Nation's laws.



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# EMERGENCY ADOPTION OF THE ONEIDA HIGHER EDUCATION PANDEMIC RELIEF FUND LAW LEGISLATIVE ANALYSIS

#### **SECTION 1. EXECUTIVE SUMMARY**

	Analysis by the Legislative Reference Office
Intent of the Proposed Law	<ul> <li>Provide the guidelines and requirements for use of the Oneida Higher Education Pandemic Relief Fund [10 O.C. 1003.4];</li> <li>Describe the presumption of need and the General Test to be used to determine General Welfare Exclusion [10 O.C. 1003.5];</li> <li>Provide that the Nation allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the Coronavirus Relief Funds (CRF), and that this program is dependent on availability of funding from the CRF. [10 O.C. 1003.6].</li> </ul>
Purpose	Create the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term. [10 O.C. 1003.1-1].
Affected Entities	Oneida Business Committee, Oneida Higher Education Department, Oneida Accounting Department, Oneida Economic Services
Public Meeting	A public meeting is not required for emergency legislation [1 O.C. 109.8-1(b) and 109.9-5(a)].
Fiscal Impact	A fiscal impact statement is not required for emergency legislation [1 O.C. 109.9-5(a)].
Expiration of Emergency Legislation	Emergency legislation expires six (6) months after adoption and may be renewed for an additional six (6) month period.

#### SECTION 2. LEGISLATIVE DEVELOPMENT

- **A.** *Background*. The Oneida Higher Education Pandemic Relief Fund law ("the Law") will be a new law adopted by the Nation on an emergency basis for the purpose of creating the Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions for the 2020 Fall Term. [10 O.C. 1003.1-1].
  - On August 1, 2020, the Oneida Law Office called a meeting with the Legislative Reference Office, Finance Administration, and the Parks and Recreation Department to discuss the potential adoption of the Law on an emergency basis.
  - The Legislative Operating Committee added the Law to its Active Files List on August 5,2020.
  - Emergency adoption of Law is being pursued to create an Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions with funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency.
- **B.** *COVID-19 Pandemic*. The world is currently facing a pandemic of the coronavirus disease 2019 (COVID-19). The COVID-19 outbreak originated in Wuhan, China and has spread to many other countries throughout the world, including the United States. The COVID-19 pandemic has resulted in

 high rates of infection and mortality, as well as vast economic impacts including effects on the stock market and the closing of all non-essential businesses.

- Declaration of a Public Health State of Emergency.
  - On March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" regarding COVID-19 which declared the Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority should action need to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses.
  - The Public Health State of Emergency has since been extended until August 11, 2020, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A.
- Additional Action taken by the Nation in Response to COVID-19.
  - On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management and Homeland Security law to create and delegate authority to a COVID-19 Core Decision Making Team ("COVID-19 Team"). [3 O.C. 302.10].
    - When a public health emergency has been declared, the COVID-19 Team has the authority to declare exceptions to the Nation's laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation's community, members, and employees. [3 O.C. 302.10-21.
    - These declarations remain in effect for the duration of the Public Health State of Emergency. [3 O.C. 302.10-3].
  - On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*," which required a great reduction in expenses as a result of zero gaming revenues supporting governmental functions and included initial and on-going layoffs.
  - The Oneida Business Committee also adopted resolution BC-04-08-20-G titled, "*Reducing the General Tribal Council Higher Education Scholarship Payments for FY2020 and FY2021*." This resolution provided that the General Tribal Council Higher Education Scholarship be reduced to five thousand dollars (\$5,000) per year.
- COVID-19 Team Declarations: Safer at Home.
  - On March 24, 2020, the Nation's COVID-19 Team issued a "Safer at Home" declaration
    which prohibited all public gatherings of any number of people and ordered all individuals
    present within the Oneida Reservation to stay at home or at their place of residence, with
    certain exceptions allowed.
  - On April 21, 2020, the COVID-19 Team issued an "*Updated Safer at Home*" declaration which allowed for gaming and golf operations to resume.
  - On May 19, 2020, the COVID-19 Team issued a "Safer at Home Declaration, Amendment, Open for Business" which directed that individuals within the Oneida Reservation should continue to stay at home, businesses could re-open under certain safer business practices, and social distancing should be practiced by all persons.

• On June 10, 2020, the COVID-19 Team issued a "Stay Safer at Home" declaration which lessened the restrictions of the "Safer at Home Declaration, Amendment, Open for Business" while still providing guidance and some restrictions.

#### **SECTION 3. CONSULTATION AND OUTREACH**

- **A.** Representatives from the following departments or entities participated in the development of this Law and legislative analysis:
  - Oneida Law Office;
  - Finance Administration; and
  - Governmental Services Division.

#### **SECTION 4. PROCESS**

- **B.** The adoption of this Law is being considered on an emergency basis. The Oneida Business Committee may temporarily enact an emergency law where legislation is necessary for the immediate preservation of public health, safety, or general welfare of the Reservation population and enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
  - Emergency adoption of this Law is being pursued for the preservation of the general welfare of the Reservation population. Due to the COVID-19 pandemic many grants, scholarships, and loans were forsaken by the granting institutions or banks, and personal and family funds redirected to other needs during the ongoing Public Health State of Emergency, such as medical expenses and losses due to unemployment within the family. Emergency adoption of the Law creates an Oneida Higher Education Pandemic Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions with funding from the CARES Act CRF in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency.
  - Observance of the requirements under the Legislative Procedures Act for the adoption of this Law would be contrary to public interest. The 2020 Fall Term for many higher education institutions begins in a couple weeks and the process and requirements of the Legislative Procedures Act cannot be completed in time to ensure that the Oneida Higher Education Pandemic Relief Fund can be created for use by eligible students during the 2020 Fall Term.
- **C.** Emergency legislation typically expires six (6) months after adoption, with one (1) opportunity for a six (6) month extension of the emergency legislation. [1 O.C. 109.9-5(b)].
- **D.** The Legislative Procedures Act does not require a public meeting or fiscal impact statement when considering emergency legislation. [1 O.C. 109.9-5(a)]. However, a public meeting and fiscal impact statement will eventually be required when considering permanent adoption of this Law.
- **D.** The following work meetings were held regarding the development of this law and legislative analysis:
  - August 3, 2020: Work meeting with Oneida Law Office, Finance Administration, and Parks and Recreation Department; and
  - August 4, 2020. LOC work meeting.

#### **SECTION 5. CONTENTS OF THE LEGISLATION**

**A.** Guidelines and Requirements. The Oneida Higher Education Pandemic Relief Fund is being established to meet the higher education needs of its students during the COVID-19 Public Health Emergency. [10 O.C. 1003.4-1]. The proposed Law provides various guidelines and requirements for

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use of the Oneida Higher Education Pandemic Relief Fund. [10 O.C. 1003.4]. An enrolled member of the Nation who is enrolled at a higher education institution is eligible to receive up to twenty thousand dollars (\$20,000) towards tuition, room and board, technology requirements, and classroom requirements assistance. [10 O.C. 1003.4-2(a)]. Tuition shall be paid directly to the higher education institution upon submission of an invoice for tuition created by the higher education institution., while room and board, and classroom requirements shall be paid directly to the student, who is then responsible for maintaining and submitting receipts or other proof of expenditures by December 15, 2020. [10 O.C. 1003.4-2(b)-(c)]. All funds are required to be requested in accordance with the Oneida Higher Education Pandemic Relief Fund standard operating procedure. [10 O.C. 1003.4-2(d)]. The Oneida Higher Education Department is delegated the responsibility to oversee the distribution of the Oneida Higher Education Pandemic Relief Fund, as well as maintain records along with the Oneida Accounting Department. [10 O.C. 1003.4-3]. The Oneida Higher Education Department shall hire a Higher Education Pandemic Relief Counselor whom shall be assigned to work in the office of Oneida Economic Support Services. Id. Oneida Higher Education shall be responsible for the maintenance of records along with the Oneida Accounting Department. Id. Students are also required to maintain accurate records for review by the Internal Revenue Service upon request. [10 O.C. 1003.4-4].

- Effect. The proposed guidelines and requirements for use of the Oneida Higher Education Pandemic Relief Fund provided by the Law, and the standard operating procedure for requesting funds, will ensure that the Oneida Higher Education Pandemic Relief Fund is used in a consistent and organized manner.
- **B.** Presumption of Need/General Test for General Welfare Exclusion. The proposed Law provides that Internal Revenue Service Procedures lists education programs that assist tribal members with tuition, housing, room and board, technology requirements and laptop computers as a Safe Harbor program for which need is presumed. [10 O.C. 1003.5-1]. The Law also provides that the Oneida Education Pandemic Relief Fund meets the requirements of the General Test as defined in the Oneida General Welfare law, as well as criteria of the Internal Revenue Service Procedures, and the General Welfare Exclusion Act of 2014.
  - Effect. Meeting the criteria of the Safe Harbor Program, and General Test of the Oneida General
    Welfare law means that the assistance provided through the Oneida Higher Education Pandemic
    Relief Fund to a recipient shall be treated as a General Welfare Exclusion, and shall be non-taxable.
- **C.** *Budget*. The proposed Law provides that the Nation shall allocate funds to the Oneida Higher Education Pandemic Relief Fund only from monies it received pursuant to the CRF, and that this program is dependent on availability of funding from the CRF.
  - Effect. The Oneida Higher Education Pandemic Relief Fund was created to assist eligible Tribal members enrolled as students in higher education institutions with funding from the CARES Act Coronavirus Relief Funds CRF in order to meet the higher education needs of its students during the COVID-19 Public Health Emergency. The Oneida Higher Education Pandemic Relief Fund was not created to necessarily be utilized on an annual basis, such as other Funds like the Oneida Trust Scholarship Fund.

#### **SECTION 6. EXISTING LEGISLATION**

- **A.** *Related Legislation*. The following laws of the Nation are related to this Law:
  - Trust Scholarship Fund Policy. The Trust Scholarship Fund Policy was adopted by the Oneida Business Committee for the purpose of establishing a trust resource for providing financial aid

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189 190 opportunities based on established criteria. [9 O.C. 901.1-1]. ■ This Law provides that the Oneida Higher Education Pandemic Relief Fund is a unique program not associated with the Oneida Trust Scholarship Fund and this law does not amend or override the Trust Scholarship Fund Policy. [10 O.C. 1003.1-5].

scholarships to assist eligible enrolled Oneida Tribal members in securing higher educational

- Legislative Procedures Act. The Legislative Procedures Act was adopted by the General Tribal Council for the purpose of providing a standard process for the adoption of laws of the Nation which includes taking into account comments from members of the Nation and input from agencies of the Nation. [1 O.C. 109.1-1, 109.1-2].
  - The Legislative Procedures Act provides a process for the adoption of emergency legislation when the legislation is necessary for the immediate preservation of the public health, safety, or general welfare of the Reservation population and the enactment or amendment of legislation is required sooner than would be possible under this law. [1 O.C. 109.9-5].
    - The Legislative Operating Committee is responsible for first reviewing the emergency legislation and for forwarding the legislation to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
    - The proposed emergency legislation is required to have a legislative analysis completed and attached prior to being sent to the Oneida Business Committee for consideration. [1 O.C. 109.9-5(a)].
      - a. A legislative analysis is a plain language analysis describing the important features of the legislation being considered and factual information to enable the Legislative Operating Committee to make informed decisions regarding legislation. A legislative analysis includes a statement of the legislation's terms and substance; intent of the legislation; a description of the subject(s) involved, including any conflicts with Oneida or other law, key issues, potential impacts of the legislation and policy considerations. [1 O.C. 109.3-1(g)].
    - Emergency legislation does not require a fiscal impact statement to be completed or a public comment period to be held. [1 O.C. 109.9-5(a)].
    - Upon the determination that an emergency exists the Oneida Business Committee can adopt emergency legislation. The emergency legislation becomes effective immediately upon its approval by the Oneida Business Committee. [1 O.C. 109.9-5(b)].
    - Emergency legislation remains in effect for a period of up to six (6) months, with an opportunity for a one-time emergency law extension of up to six (6) months. [1 O.C. 109.9-5(b)].
  - Emergency adoption of this Law would conform with the requirements of the Legislative Procedures Act.

#### **SECTION 7. OTHER CONSIDERATIONS**

A. Deadline for Permanent Adoption of Legislation. The emergency adoption of this Law will expire six (6) months after adoption. The emergency legislation may be renewed for an additional six (6) month period.

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Conclusion: The Legislative Operating Committee will need to consider the development and adoption of this Law on a permanent basis within the next six (6) to twelve (12) months.

programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. [10 O.C. 1001.9-2]. Conclusion: The Legislative Operating Committee is preparing both the Oneida General Welfare 203

and operated under.

emergency legislation [1 O.C. 109.6-1].

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209 210 211 B. Oneida General Welfare Law. The Oneida Business Committee will be considering the emergency adoption of an Oneida General Welfare law. Emergency adoption of an Oneida General Welfare law is being sought create a law that provides a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The purpose of the Oneida General Welfare law is to provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. [10 O.C. 1001.1-1, 1001.1-3]. The Oneida General Welfare law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including

C. Fiscal Impact. A fiscal impact statement is not required for emergency legislation. Under the Legislative Procedures Act, a fiscal impact statement is required for all legislation except

law and the Oneida Higher Education Pandemic Relief Fund law to be presented for consideration

on an emergency basis by the Oneida Business. The Oneida General Welfare law sets forth the

framework and guidelines for the Oneida Higher Education Pandemic Relief Fund to be created

#### Title 10. General Welfare Exclusion - Chapter 1003 ONEIDA HIGHER EDUCATION PANDEMIC RELIEF FUND

1003.1. Purpose and Policy

1003.2. Adoption, Amendment, Repeal

1003.3. Definitions

1003.4. Guidelines and Requirements

1003.5. Presumption of Need; General Test for General Welfare

Exclusion

1003.6. Budget

#### 1003.1. Purpose and Policy

- 2 1003.1-1. *Purpose*. The purpose of this law is to create the Oneida Higher Education Pandemic
- 3 Relief Fund to assist eligible Tribal members enrolled as students in higher education institutions
- 4 for the 2020 Fall Term.
- 5 1003.1-2. The Oneida Higher Education Pandemic Relief Fund shall assist students to meet the
- 6 needs created by the Public Health Emergency which caused grants, scholarships, and loans to be
- 7 forsaken by the granting institutions or banks during the novel coronavirus pandemic, and personal
- 8 and family funds redirected to other needs during the ongoing Public Health Emergency, including
- 9 medical expenses and losses due to unemployment within the family.
- 10 1003.1-3. *Policy*. It is the policy of the Nation to prioritize the education of its members young
- and old. The Nation provides a path and a platform for its Tribal members to excel in their
- education from Head Start through college and post-graduate studies. The Nation's future business
- and government leaders, caregivers, nourishers, managers, thought leaders, and teachers shall be
- better prepared to lead and navigate the local challenges in a global economy when they participate
- in the academics and accreditation that permits access to areas our Nation requires to remain viable
- and vital over the next seven generations.
- 17 1003.1-4. The Oneida Higher Education Pandemic Relief Fund shall be funded only through
- monies allocated to the Nation pursuant to the Coronavirus Aid, Relief, and Economic Security
- 19 (CARES) Act Coronavirus Relief Funds (CRF), codified at Section 601(d) of the Social Security
- 20 Act, for the purpose of addressing their higher education needs created by the Public Health
- 21 Emergency in the wake of the COVID-19 pandemic.
- 22 1003.1-5. The Oneida Higher Education Pandemic Relief Fund is a unique program not associated
- 23 with the Oneida Trust Scholarship Fund and this law does not amend or override the Trust
- 24 Scholarship Fund Policy at 9 O.C. 901 et seq.
- 25 1003.1-6. The Oneida Business Committee intends the Oneida Higher Education Pandemic Relief
- Fund to adhere to the mandates of the Oneida General Welfare law, 10 O.C. 1001, the Tribal
- General Welfare Exclusion Act codified at 26 U.S.C. §139E, I.R.S Rev. Proc. 2014-35, the general
- criterial defined therein at 5.01(1), and the Safe Harbor Education Programs listed and defined
- 29 therein at 5.01(2)(b), and CRF.

#### 1003.2. Adoption, Amendment, Repeal

- 32 1003.2-1. This law was adopted by the Oneida Business Committee on an emergency basis by
- 33 resolution - .

- 34 1003.2-2. This law may be amended or repealed by the Oneida Business Committee or the General
- 35 Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.
- 36 1003.2-3. Should a provision of this law or the application thereof to any person or circumstances
- be held as invalid, such invalidity shall not affect other provisions of this law which are considered
- 38 to have legal force without the invalid portions.
- 39 1003.2-4. In the event of a conflict between a provision of this law and a provision of another law,

40 the provisions of this law shall control.

1003.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

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#### 1003.3. Definitions

- 1003.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.
  - (a) "Benefits" means any approved program assistance, including payments, which is provided pursuant to this law.
  - (b) "Classroom requirement" means books, subscriptions, access to internet-based programs, or any items required by the higher education institution, professor, or teacher of the course in which the student is enrolled.
  - (c) "General Test" means the criteria used to determine if any assistance or benefits provided through an approved program to a recipient shall be treated as a General Welfare Exclusion. The criteria of the General Test include the following:
    - (1) Paid on behalf of the Nation;
    - (2) Pursuant to an approved program;
    - (3) Does not discriminate in favor of members of the governing body of the Nation;
    - (4) Are available to any Tribal member who meets the guidelines of the approved program;
    - (5) Are for the promotion of general welfare;
    - (6) Are not lavish or extravagant;
    - (7) Are not compensation for services; and
    - (8) Are not per capita payments.
  - (d) "Higher education institution" means universities, colleges, vocational colleges, community colleges, liberal arts colleges, postgraduate schools, institutes of technology and other collegiate level institutions, such as vocational schools, trade schools and career colleges, that award academic degrees or professional certifications.
  - (e) "Higher Education Pandemic Relief Counselor" means the person hired and assigned by the Oneida Higher Education Division to assist Oneida Economic Support Services in the review and processing of the Oneida Higher Education Pandemic Relief Fund.
  - (f) "Nation" means the Oneida Nation.
  - (g) "Public Health Emergency" means the economic, governmental, and medical crises caused by COVID-19 and the novel coronavirus pandemic.
  - (h) "Room and board" means on or off campus housing and food requirements adjusted to meet the unique lodging and food provision requirements or governmental mandates during the Public Health Emergency.
  - (i) "Student" means a Tribal member, age eighteen (18) and older, enrolled in a higher education institution during the operative period of this law.
  - (j) "Technology requirements" means computers, internet access fees, VPN subscriptions, computer-based or cloud-based subscriptions required to function within a contemporary academic setting such as Office 365, Adobe-based programs, other required licenses, and electric or telecommunications costs.
  - (k) "Tuition" means the price or payment for instruction at a higher education institution.
  - (1) "Tribal member" means an individual who is an enrolled member of the Nation.

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#### 1003.4. Guidelines and Requirements

1003.4-1. The Oneida Higher Education Pandemic Relief Fund is established to meet the higher education needs of its students during the COVID-19 Public Health Emergency.

- 1003.4-2. The Oneida Higher Education Pandemic Relief Fund shall provide students:
  - (a) Up to twenty thousand dollars (\$20,000) towards tuition, room and board, technology requirements, and classroom requirements assistance.
  - (b) Tuition shall be paid directly to the higher education institution upon submission of an invoice for tuition created by the higher education institution.
  - (c) Room and board and classroom requirements shall be paid directly to the student, whom shall be responsible for maintaining and submitting receipts or other proof of expenditures by December 15, 2020.
  - (d) All funds shall be requested pursuant to the Oneida Higher Education Pandemic Relief Fund standard operating procedure.
  - (e) Laptop computers may be supplied to the student upon a written request by the student to the Nation's Higher Education Pandemic Relief Counselor and in accordance with the Nation's interpretation of CRF and any applicable standard operating procedure.
- 1003.4-3. Oneida Higher Education Department shall oversee distribution of the Oneida Higher Education Pandemic Relief Fund in accordance with this law, CRF, and the Nation's interpretation thereof. The Oneida Higher Education Department shall hire the Higher Education Pandemic Relief Counselor whom shall be assigned to work in the office of Oneida Economic Support Services. Oneida Higher Education shall be responsible for the maintenance of records along with the Oneida Accounting Department.
- 1003.4-4. Maintenance of Records.
  - (a) *Nation*. The Nation requires students to submit tuition invoices, leases, room and board expenses, and any other proof of expenses or receipts to substantiate the request for payments from the Oneida Higher Education Pandemic Relief Fund by December 15, 2020. The Nation shall maintain these records for the required period of time by the CARES Act, CRF, and Internal Revenue Service mandates.
  - (b) *Student*. The student shall maintain accurate records of the above listed items for review by the Internal Revenue Service upon request.

#### 1003.5. Presumption of Need; General Test for General Welfare Exclusion

- 1003.5-1. I.R.S. Rev. Proc. 2014-35, section 5.02(2)(B) lists education programs that assist tribal members with tuition, housing, room and board, technology requirements and laptop computers as a Safe Harbor program for which need is presumed.
- 1003.5-2. The Oneida Higher Education Pandemic Relief Fund meets the requirements of the General Test as defined in the Oneida General Welfare law, 10 O.C. 1001; General Criteria as defined in I.R.S. Rev. Proc. 2014-35, section 5.01(1); and the requirements of the Tribal General Welfare Exclusion Act of 2014, 26 U.S.C. §139E(b).
  - (a) The benefits are provided to the students pursuant to this law, as approved by the Oneida Business Committee, and in accordance with Oneida General Welfare law.
  - (b) The Oneida Higher Education Pandemic Relief Fund has guidelines specifying how Students qualify for the benefit in section 1003.4 of this law.

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128	(c) The program is available to any student as defined in Section 1003.3-1(1) of this law.
129	(d) The distribution of benefits does not discriminate in favor of members of the governing
130	body of the Nation, are not compensation, and are not lavish or extravagant under the facts
131	and circumstances of the Public Health Emergency.
132	
133	1003.6. Budget
134	1003.6-1. The Nation shall allocate funds to the Oneida Higher Education Pandemic Relief Fund
135	only from monies it received pursuant to the CRF. This program is dependent on availability of
136	funding from the CRF.
137	
138	End.
1 <b>40</b> 141	
142 143	Emergency Adopted - BC
14.)	

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Oneida Business Committee Agenda Request

Adopt resolution entitled Support Submitting the Nation's Disposal of Solid and Hazardous Waste Project

1. Meeting Date Requested: 08 / 12 / 20			
2. General Information:			
Session:   Open   Executive - See instructions for the applicable laws, then choose one:			
Agenda Header: Resolutions			
A count of Information only			
Accept as Information only			
Action - please describe:			
Adopt resolution titled Support Submitting the Nation's Disposal of Solid and Hazardous Waste Project Proposal to the Bureau of Indian Affairs and direct that the Resolution be submitted to the BIA Regional			
Environmental Scientist.			
3. Supporting Materials  ☐ Report ☐ Resolution ☐ Contract			
☐ Other:			
1. Disposal of Solid & Hazardous Waste Proposal 3.			
2. Statement of Effect 4.			
⊠ Business Committee signature required			
4. Dood was before a state of			
4. Budget Information  ☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted			
<ul><li>☐ Budgeted - Tribal Contribution</li><li>☐ Budgeted - Grant Funded</li><li>☒ Unbudgeted</li></ul>			
5. Submission			
5. Submission			
Authorized Sponsor / Liaison: Melinda J. Danforth, Director/IGAC			
Primary Requestor/Submitter: Candice Skenandore, Self Governance Coordinator/IGAC			
Your Name, Title / Dept. or Tribal Member			
Additional Requestor:  Patrick Pelky, Division Director/EHS  Name, Title / Dept.			
Additional Requestor:  Name, Title / Dept.			

#### **Oneida Business Committee Agenda Request**

#### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

Due to the pandemic and the Nation's Declaration of the Public Health State of Emergency, some programs and services have been impacted, including the discontinuation of large item pickups by our trash collection service provider.

The Nation has been receiving reports of increased illegal dumping including, but not limited to, construction and demolition debris, large bulky items, and electronics.

Then Nation has submitted a project plan to the BIA requesting funds in the amount of \$ 42,831.50 which will pay for Project Coordinator, Contractor costs, and a purchase order with the Brown County Transfer Station. The intent of the project is to:

- -Establish a purchase order agreement with Brown County Solid Waste Transfer Station and Hazardous Waste Disposal Facility to provide electronic, bulky item and waste tire waste disposal for enrolled Oneida membership; -Facilitate the collection and disposal of material collected at illegal dump sites by a contractor;
- -Wages and Fringe for a Project Manager for 200 hours to develop an on-line voucher program for the Brown County Solid Waste and Transfer Station

The BIA has asked that the proposal accompany a resolution which supports the project plan. Adopting this
resolution will support the Nation's Disposal of Solid & Hazardous Waste Project, approve the plan, and direct
that the adopted resolution be sent to the BIA Regional Environmental Scientist.

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

#### Environmental, Health, Land & Agriculture Division



To: Scott Doig – Bureau of Indian Affairs, Regional Environmental Scientist

From: Victoria Flowers – Environmental Compliance Coordinator

Date: August 3, 2020

Re: Environmental Project Funding FY20 Year End Award

#### Introduction

The Corona Virus ID 19 Pandemic (COVID-19), has provided an opportunity to review the Oneida Nation's environmental programs. During COVID-19 the services able to be offered to members has been affected. Disposal of solid and hazardous waste and program management has been especially challenging with limitations imposed by social distancing and vendor policies.

Reports of increased illegal dumping, especially of construction and demolition (C&D) debris, large bulky items and electronics. The increase in these waste streams can be directly attributed to Oneida's declaration and continuation of the Oneida Nation's Public Health State of Emergency and Safer at Home order and the discontinuation of large item pick up by our trash collection service provider.

The Oneida Nation has worked cooperatively with the state of Wisconsin by participating in their Recycling Grant to Responsible Units award program and with the Tri-County Waste Disposal partnership to manage and properly dispose of residential waste and recycling streams.

#### **Issue Statement**

COVID-19 impacted the Nation economically due the casino closing for 6 weeks and the indefinite lay-off of 2000 people, many of them enrolled members of the Oneida Nation. Reduction of casino revenue has necessitated the repurposing of other external funding sources that have historically supported solid waste and recycling. This affects the Nation's ability to provide disposal for C&D, large bulky items, white goods, electronics and tires. The funding request will support offering this option to Oneida Nation members.

#### **Project Proposal**

This project seeks to:

- Establish a purchase order agreement with Brown County Solid Waste Transfer Station and Hazardous Waste Disposal Facility to provide electronic, bulky item and waste tire waste disposal for enrolled Oneida membership;
- Facilitate the collection and disposal of material collected at illegal dump sites by a contractor:
- Wages and Fringe for a Project Manager for 200 hours to develop an on-line voucher program for the Brown County Solid Waste and Transfer Station

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#### **Project Outcome**

The project outcome will support the Nation's self-governance goals of protecting land resources by providing a solution to solid and hazardous waste disposal that is protective of human health.

Cost Category	Est Need	Unit	Cost	Total
Project Manager	200	Hours	\$ 35.00	\$ 7,000.00
Project Manager Fringe		40.45%	\$ 14.16	\$ 2,831.50
Contractor Cost (illegal	4	Per	\$ 2,000.00	\$ 8,000.00
dumping)		event		
Brown County Transfer	1	РО	\$ 25,000.00	\$ 25,000.00
Station PO				
Funding Request Total				\$ 42,831.50

Thank you for your consideration of this proposal, we look forward to hearing from you. If you have any questions, please contact me at (920)869-4548 office, (920)366-6720 or email at <a href="mailto:vflowers@oneidanation.org">vflowers@oneidanation.org</a>

Sincerely,

Victoria Flowers Environmental Compliance Coordinator Oneida Nation Public Packet 143 of 178

## **Oneida Nation**

Post Office Box 365

Phone: (920) 869-2214



Oneida, WI 54155

1 2 2	Support Sul	BC Resolution # bmitting the Nation's Disposal of Solid and Hazardous Waste Project Proposal to the Bureau of Indian Affairs			
2 3 4 5 6 7	WHEREAS,	the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and			
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29	WHEREAS,	the Oneida General Tribal Council is the governing body of the Oneida Nation; and			
	WHEREAS,	the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and			
	WHEREAS,	the coronavirus pandemic (COVID-19) has provided an opportunity to the Nation to review its environmental programs; and			
	WHEREAS,	the programs and services offered to the Nation's membership has been impacted by COVID-19; and			
	WHEREAS,	the Nation declared a Public Health State of Emergency which, among other th discontinued the pickup of large items by our trash collection service provider; and			
	WHEREAS,	monitoring the disposal of solid and hazardous waste as well as program management has been challenging with limitations imposed by social distancing and vendor policies; and			
	WHEREAS,	the Nation has been receiving reports of increased illegal dumping, including, but not limited to construction and demolition debris, large bulky items, and electronics; and			
	WHEREAS,	the Nation participates in the State of Wisconsin's Recycling Grant to Responsible Units award program and the Tri-County Waste Disposal partnership to manage and properly dispose of residential waste and recycling streams; and			
30 31 32 33 34	WHEREAS,	the COVID-19 pandemic forced the Nation to temporarily suspend its gaming operations which resulted in the repurposing external funds that historically support solid waste and recycling; and			
34 35 36 37 38	WHEREAS,	The Nation has prepared a funding a request for the Bureau of Indian Affairs to obtain funds in order to provide disposal of construction and demolition debris, large bulky items, white goods, electronics, and tires.			
39 40	NOW THEREFORE BE IT RESOLVED, that the Oneida Business Committee supports the Nation' attached project proposal that will:				

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BC Resolution #\_\_\_\_\_ Support Submitting the Nation's Disposal of Solid and Hazardous Waste Project Proposal to the Bureau of Indian Affairs Page 2 of 2

- 42 43 44 45
- Establish a purchase order agreement with Brown County Solid Waste Transfer Station and Hazardous Waste Disposal Facility to provide electronic, bulky item and waste tire waste disposal for enrolled Oneida membership;
- Facilitate the collection and disposal of material collected at illegal dump sites by a contractor;
- Wages and Fringe for a Project Manager for 200 hours to develop an on-line voucher program for the Brown County Solid Waste and Transfer Station

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**NOW THEREFORE BE IT FINALLY RESOLVED,** that the Oneida Business Committee approves the Nation's project proposal which support's the Nation's Self-Governance mission to protect the people, land, and resources of the Oneida Nation by providing a solution to solid and hazardous waste disposal.





### **Oneida Nation**

Oneida Business Committee

Legislative Operating Committee



## **Statement of Effect**

Support Submitting the Nation's Disposal of Solid and Hazardous Waste Project Proposal to the Bureau of Indian Affairs

### **Summary**

This resolution supports the Nation's project proposal to the Bureau of Indian Affairs regarding the disposal of solid and hazardous waste, which support's the Nation's Self-Governance mission to protect the people, land, and resources of the Oneida Nation by providing a solution to solid and hazardous waste disposal.

Submitted by: Clorissa N. Santiago, Senior Staff Attorney, Legislative Reference Office

Date: August 5, 2020

## Analysis by the Legislative Reference Office

This resolution provides that environmental programs and services offered to the Nation's membership have been impacted by the COVID-19 pandemic.

In response to the COVID-19 pandemic, on March 12, 2020, in accordance with the Emergency Management and Homeland Security law, Chairman Tehassi Hill signed a "*Declaration of Public Health State of Emergency*" regarding COVID-19 which has since been extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, and BC-07-08-20-A. [3 O.C. 302.8-1].

On April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*." This resolution adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, which included five percent (5%) mandatory budget cuts across the Nation, reduction of all funding to essential services only, and layoffs.

This resolution states that as a result of the Nation's Public Health State of Emergency the pickup of large items by our trash collection service provider have been discontinued. This resolution reports that monitoring the disposal of solid and hazardous waste as well as program management has been challenging with limitations imposed by social distancing and vendor policies, and also challenging due to the repurposing of external funds that historically supported solid waste and recycling as a result of the financial effects of the COVID-19 pandemic on the Nation. Additionally, the resolution provides that the Nation has been receiving reports of increased illegal dumping, including, but not limited to construction and demolition debris, large bulky items, and electronics.

The Recycling and Solid Waste Disposal law was adopted by the Oneida Business Committee to promote the health, safety and welfare of residents and members of the Oneida Nation through the establishment of standards necessary to the sanitary and environmentally sound disposal of

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recyclable materials. [4 O.C. 405.1-1]. The Recycling and Solid Waste Disposal law prohibits a person from leaving, depositing, or dumping solid waste within the exterior boundaries of the Oneida Reservation except at a designated disposal or collection site. [4 O.C. 405.11-1]. The Recycling and Solid Waste Disposal law delegates the authority to administer and create regulations regarding this law to the Oneida Environmental Department. [4 O.C. 405.12-7].

This resolution provides that the Nation's Environmental Compliance Coordinator has prepared a funding request for the Bureau of Indian Affairs to obtain funds in order to provide for the disposal of construction and demolition debris, large bulky items, white goods, electronics, and tires. The project proposal requests funding for the following measures:

- Establish a purchase order agreement with Brown County Solid Waste Transfer Station and Hazardous Waste Disposal Facility to provide electronic, bulky item waste, and tire waste disposal for enrolled Oneida membership;
- Facilitate the collection and disposal of material collected at illegal dump sites by a contractor; and
- Wages and Fringe for a Project Manager for two hundred (200) hours to develop an online voucher program for the Brown County Solid Waste and Transfer Station.

Through the adoption of this resolution the Oneida Business Committee approves and supports the project proposal which support's the Nation's Self-Governance mission to protect the people, land, and resources of the Oneida Nation by providing a solution to solid and hazardous waste disposal.

### Conclusion

Adoption of this resolution would not conflict with any of the Nation's laws.



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## **Oneida Business Committee Agenda Request**

Adopt resolution entitled Continuing Resolution for Fiscal Year 2021

**1. Meeting Date Requested:** <u>08</u> / <u>12</u> / <u>20</u>

2.	General Information:			
	Session:   Open Executive - See instructions for the applicable laws, then choose one:			
	Agenda Header: General Tribal Council			
	□ A count of left most for each			
	<ul><li>☐ Accept as Information only</li><li>☐ Action - please describe:</li></ul>			
	Review / adopt Fiscal Year 2021 Continuing Resolution			
3.	Supporting Materials			
	☐ Report ☑ Resolution ☐ Contract			
	⊠ Other:			
	1. SOE 3.			
	2. 4.			
	-1			
	☐ Business Committee signature required			
4.	Budget Information			
	☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted			
5.	Submission			
	Authorized Sponsor / Liaison: Trish King, Treasurer			
	Authorized Sportson, Elaison.			
	Primary Requestor/Submitter: Brian A Doxtator, Executive Assistant to Tribal Treasurer			
	Your Name, Title / Dept. or Tribal Member			
	Additional Requestor:  Name, Title / Dept.			
	Additional Requestor:			
	Name, Title / Dept.			

## **Oneida Business Committee Agenda Request**

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

### History:

The Oneida Business Committee approved resolution #BC-03-17-2020-A Adoption of Tier IV Budget Contingency Plan for the remainder of Fiscal Year 2020 as a result of potential CoVID-19 Pandemic financial impacts. Subsequently, the CoVID-19 Decision Making Team subsequently approved the Declaration - Suspension of all Fiscal Year 2021 budget planning activities on March 19, 2020.

The CoVID-19 Finance Team has continued to review the finances of the Nation and economic outlooks. The information reviewed identifies that it is not likely to be possible to reconvene budget planning for Fiscal Year 2021, and that economic impacts will continue to reverberate through the economy and affecting individual spending abilities and habits; and lastly, Finance is unable to provide a financial projection due to Gaming's operational fluctuations caused by the pandemic

In accordance with Title 1. Government and Finances – Chapter 121 - BUDGET MANAGEMENT AND CONTROL Twahwistatye?nitha? - We have a certain amount of money, Section 121.5-9. Budget Adoption states: "The Oneida Business Committee shall present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30th of each year. In the event that the General Tribal Council does not adopt a budget by September 30th, the Oneida Business Committee may adopt a continuing budget resolution(s) until such time as a budget is adopted."

As of August 4, 2020, relative to Sars-COV-2, the virus which causes CoVID-19, the following has been considered in determining this Continuing Resolution:

- most of the population is not immune
- finalizing a vaccine to CoVID-19 is still a long way off
- the strain on the economy (local, national, world), according to economist strategist, will extend its impacts well beyond three (3) to five (5) years; forecasting impacts up to ten (10) years
- The Oneida Nation's numbers, since July 7, 2020, are climbing in positive tests

Requested Motior	Rec	uested	Motion
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Adopt the Fiscal Year 2021 Continuing Resolution

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

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## **Oneida Nation**

Post Office Box 365

Phone: (920)869-2214



Oneida, WI 54155

1 DRAFT 2 **BC** Resolution # 3 4 5 6 7 **Continuing Resolution for Fiscal Year 2021** WHEREAS, the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and 8 9 WHEREAS, the Oneida General Tribal Council is the governing body of the Oneida Nation; and 10 the Oneida Business Committee has been delegated the authority of Article IV, Section 1, WHEREAS, 11 of the Oneida Tribal Constitution by the Oneida General Tribal Council; and 12 13 WHEREAS, the federal government has proclaimed a public health emergency related to the spread of 14 the COVID-19 virus and has identified that the spread of the virus has resulted in large 15 numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, 16 and businesses; and 17 18 WHEREAS, state governors, including the State of Wisconsin, have declared public health emergencies 19 and state public health officers have issued orders, for example, closing public schools, 20 limiting public gatherings, and closing restaurants and bars except for take-out orders; and 21 22 WHEREAS, on March 12, 2020 the Chairman declared a public health state of emergency, the Oneida 23 Business Committee took actions to take steps to protect the health and welfare of the 24 members, employees and the community, including instituting expenditure restrictions to 25 preserve resources for the provision of governmental services to members most at risk, 26 closure of the Nation's gaming operations, and insuring that employees will continue to be 27 paid during the public health emergency as long as the Nation's resources will allow; and 28 29 WHEREAS, the Oneida Business Committee adopted resolution # BC-04-08-20-C which declared that 30 Tier V budget contingency measures are implemented which required a 5% reduction in 31 overall expenditures and budgets; and 32 33 WHEREAS, the Treasurer has implemented a COVID-19 Finance Team (Finance Team) to monitor the 34 financial status of the Nation and make recommendations regarding expenditure 35 restrictions for the remainder of FY2020, budgeting for FY2021, development of directions 36 for a continuing resolution for FY2021, and other actions necessary to ensure 37 governmental services can continue to be provided to those most in need and at risk 38 regarding COVID-19 and the health impacts of the virus; and 39 40 WHEREAS. the Finance Team has determined the following rules shall apply to all decisions being 41 made regarding the finances of the Nation and how those limited resources shall be 42 allocated: 43 1. All decisions are employee/member/community empathetic/compassionate 44 balanced against cash flow; and

2. All decisions shall protect investments; and utilize only available cash; and

BC Resolution \_\_\_\_\_\_ Draft ling Resolution for Fiscal Year 2021

Continuing Resolution for Fiscal Year 2021 Page 2 of 3

WHEREAS, the Finance Team has identified that the Nation can, if funding is carefully managed, meet the needs of the operations in providing services for a 30-day period beginning from the closure date of the gaming operations; and

WHEREAS, the Finance Team, working closely with Intergovernmental Affairs and Communications, is kept up to date regarding federal emergency funding opportunities which will assist the Nation in managing the public health crises where federal financial assistance was authorized and delivered; and

whereas, the Finance Team, working closely with the Grants Office, has identified that granting agencies provided approvals to delay or amend existing grants considering the current public health crises which has assisted the Nation in managing expenses during the financial constraints; and

whereas, the Finance Team has identified it is impossible to identify revenues at any level of accuracy during this emergency public health period as the economy is impacted and beyond as the economy recovers, which impacts the ability to generate a budget for the FY2021; and

**WHEREAS,** the Treasurer, upon review of the information from the Finance Team, is recommending the Oneida Business Committee adopt a continuing budget resolution for FY2021;

Continuing Resolution for FY2021

**NOW THEREFORE BE IT RESOLVED**, that the Oneida Business Committee adopts this continuing budget resolution for FY2021, directing that FY2021 expenditures shall derive from each fund unit's approved contingency plan (FY2020 budget) as impacted by resolution # BC-04-08-20-C, *Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*, and all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services.

**NOW THEREFORE BE IT FURTHER RESOLVED**, that the planned \$0.50 wage increase for FY2021 shall not be implemented.

Critical-Essential Services

**NOW THEREFORE BE IT FURTHER RESOLVED,** that the Operations shall reduce all funding to critical-essential services, only, to the greatest extent possible for FY2021, or until formerly announced otherwise, to maintain viability of the Nation and its' organization so long as the Nation is financially able to allocate funding. Critical-Essential services for the purposes of this Resolve should be understood as including employee payroll as defined in Resolve #3, direct costs to provide the service, and indirect costs.

Critical-Essential Employee Levels

**NOW THEREFORE BE IT FURTHER RESOLVED,** that employee levels are to be managed at critical-essential employee levels only. Critical-Essential employee shall be defined as the minimum level necessary to provide critical-essential programs/services as defined in Resolve #2.

Travel

**NOW THEREFORE BE IT FURTHER RESOLVED,** that all travel is prohibited, with an exception for the Oneida Nation Chairman whose travel is deemed necessary and critical-essential to the Nation.

Capital Expenditures, Capital Improvement Projects and Technology Set Asides

**NOW THEREFORE BE IT FURTHER RESOLVED,** that Capital Expenditures, Capital Improvement Projects, and Technology Set Asides are on hold for the Fiscal Year 2021; however, all projects approved by the OBC on May 12, 2020, shall continue until completion:

- 1. CIP #05-013 Elder Services / Apartment Improvements (\$1M)
- 2. CIP #15-005 Oneida Fishery Restoration Phase II (\$432K)
- 3. CIP #16-003 Central Oneida (\$126K)

BC Resolution \_ Continuing Resolution for Fiscal Year 2021 Page 3 of 3

- 102 4. CIP #19-005 - Archiguette (\$167,000) 103 5. CIP #19-008 - Homeless Shelter 6. CIP #23-005 - Residential Home Sites 104
- 105 7. E-nation Project (\$17,640)
- 8. Surveillance (\$440,000) 106
- 107 9. EMR (\$81,000)
- 108 10. HCM – HR (\$32,045)
- 109 11. Gaming Switch Project (\$446,651)
- 110 12. Webtech – Web Development (\$2,000)

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112 Building Maintenance and Repairs Expenses 113

NOW THEREFORE BE IT FURTHER RESOLVED, all expenses arising out of the Building Maintenance Repairs line shall be restricted to emergency health, safety, or regulatory actions.

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Reporting Information and Approvals

NOW THEREFORE BE IT FURTHER RESOLVED, that for the remainder of FY2020 and FY2021 the Treasurer shall continue to provide to the Oneida Business Committee

- Weekly Cash Forecast Reports which identifies revenue and expenses for at least a two-year period;
- Weekly Cash Requirements Reports which identifies cash management projections for the following week and an updated weekly cash requirement report for the prior week which includes the primary vendors and amounts paid; and
- Monthly Owner's (Asset Management) Reports which identifies amounts and types of investments of all assets in the report as well as percent of obligation funded.

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NOW THEREFORE BE IT FINALLY RESOLVED, that for the remainder of FY2020 and FY2021 any changes, excluding investment decisions, to the Owner's (Asset Management) Report shall be subject to review and approval by the Oneida Business Committee.



## Oneida Nation Oneida Business Committee

Oneida Business Committee Legislative Operating Committee PO Box 365 • Oneida, WI 54155-0365 Oneida-nsn.gov



### **Statement of Effect**

Continuing Resolution for Fiscal Year 2021

## Summary

This resolution adopts a continuing budget for FY2021.

Submitted by: Kristen M. Hooker, Staff Attorney, Legislative Reference Office

Date: August 4, 2020

## Analysis by the Legislative Reference Office

The Budget Management and Control law ("the Law") was adopted by the Oneida Business Committee to set forth the requirements to be followed by the Oneida Business Committee and Oneida fund units when preparing the budget to be presented to the General Tribal Council for approval and to establish a triennial strategy planning process for the Nation's budget. [1 O.C. 121.1-1].

The Law requires the Oneida Business Committee to work with the Chief Financial Officer, executive managers, and managers to create a budget contingency plan which provides a strategy for the Nation to respond to extreme financial distress that could negatively impact the Nation. [1 O.C. 121.4-3]. The Oneida Business Committee is then required to approve the budget contingency plan by resolution. [1 O.C. 1214-3]. The Oneida Business Committee adopted the Nation's Budget Contingency Plan through resolution BC-09-13-17-A.

The Oneida Business Committee is responsible for the implementation of the budget contingency plan, provided that the Oneida Business Committee first makes a determination that the Nation is under extreme financial distress. [1 O.C. 1214-3]. Extreme financial distress includes, but is not limited to, natural or human made disasters, United States Government shutdown, Tribal shutdown, and economic downturns. [1 O.C. 1214-3].

The federal government has proclaimed a public health emergency related to the spread of the COVID-19 virus and has identified that the spread of the virus has resulted in large numbers of individuals becoming ill and high mortality rates, impacts to the stock markets, and businesses. State governors, including the State of Wisconsin, have declared public health emergencies and state public health officers have issued orders, for example, closing public schools, limiting public gatherings, and closing restaurants and bars except for take-out orders.

In accordance with the authority granted to the Oneida Business Committee through the Emergency Management and Homeland Security law, on March 12, 2020, Chairman Tehassi Hill signed a "Declaration of Public Health State of Emergency" which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1].

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The declaration of a public health emergency by the Nation and the potential financial impacts of the COVID-19 pandemic met the Law's requirement that the Nation be under extreme financial distress for the budget contingency plan to be implemented. On March 17, 2020, the Oneida Business Committee adopted resolution BC-03-17-20-A which declared that Tier IV budget contingency measures are implemented which required a four percent (4%) reduction in overall expenditures and budgets.

Since the adoption of resolution BC-03-17-20-A, the Treasurer has implemented a COVID-19 Finance Team (Finance Team) to monitor the financial status of the Nation and make recommendations regarding expenditure restrictions for the remainder of FY2020, budgeting for FY2021, development of directions for a continuing resolution for FY2021, and other actions necessary to ensure governmental services can continue to be provided to those most in need and at risk regarding COVID-19 and the health impacts of the virus.

Per the recommendation of the Finance Team, on April 8, 2020, the Oneida Business Committee adopted resolution BC-04-08-20-C titled, "*Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*." This resolution adopted Tier V budget reductions from the Budget Contingency Plan in accordance with the Budget Management and Control law, which included five percent (5%) mandatory budget cuts across the Nation, reduction of all funding to essential services only, and layoffs.

The March 12, 2020 "Declaration of Public Health State of Emergency" that Chairman Hill executed in accordance with the Emergency Management and Homeland Security law has since been extended by the Oneida Business Committee until August 11, 2020, through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A and BC-07-08-20-A. [3 O.C. 302.8-1].

Per the Budget Management and Control law, the Oneida Business Committee, executive managers and managers are required to follow the processes provided in the Law when creating the FY2021 budget to present to the General Tribal Council for consideration. [1 O.C. 121.5-1]. The Law contains processes and timelines for triennial strategic planning [1 O.C. 121.4], community input meetings [1 O.C. 121.5-2], the establishment of a priority list by the Oneida Business Committee [1 O.C. 121.5-3], deadlines for the finalization of the final draft budget [1 O.C. 121.5-7], presentation of the final draft budget in community meetings [1 O.C. 121.5-8], and consideration of the final draft budget by the General Tribal Council [1 O.C. 121.5-9]. The Oneida Business Committee is required to present the budget to the General Tribal Council with a request for adoption by resolution no later than September 30<sup>th</sup> of each year. [1 O.C. 121.5-9].

The Law permits the Oneida Business Committee to alter the deadlines for the various processes and procedures set forth in the Law only upon a showing of good cause, provided that, the Oneida Business Committee shall approve any such alterations by resolution. [1 O.C. 121.5-1].

The Finance Team has determined that it is impossible to identify revenues at any level of accuracy during this emergency public health period as the economy is impacted and beyond as the economy recovers, which impacts the ability to generate a budget for the FY2021. Thus, the Nation's Treasurer, upon review of the information from the Finance Team, is recommending



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the Oneida Business Committee adopt a continuing budget resolution for FY2021 in accordance with section 121.5-1 of the Budget Management Control law.

This resolution adopts a continuing budget for FY2021. It directs that FY2021 expenditures shall derive from each fund unit's approved contingency plan (FY2020 budget), as impacted by resolution BC-04-08-20-C, *Tier V Budget Contingency Declared for Remainder of Fiscal Year 2020*, and that all expenditures shall be restricted to the greatest extent possible to allow the Nation to provide critical-essential services. In addition, it directs that the planned \$0.50 wage increase for FY2021 not be implemented and provides further directives relating to Operations expenditures, fiscal reporting and allocations for critical-essential services.

### **Conclusion**

Adoption of this resolution would not conflict with any of the Nation's laws.



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## **Oneida Business Committee Agenda Request**

Post two (2) vacancies - Oneida Election Board

1. Meeting Date Requested: 8 / 12 / 20
2. General Information:  Session:   Open  Executive - See instructions for the applicable laws, then choose one:
Agenda Header: New Business
☐ Accept as Information only
Post two (2) vacancies - Oneida Election Board
3. Supporting Materials  Report Resolution Contract Other:  1.
2. 4.
Business Committee signature required
4. Budget Information
☐ Budgeted - Tribal Contribution ☐ Budgeted - Grant Funded ☐ Unbudgeted
5. Submission
Authorized Sponsor / Liaison: Lisa Summers, Secretary
Primary Requestor/Submitter: Brooke Doxtator, Boards, Committees, and Commissions Supervisor  Your Name, Title / Dept. or Tribal Member
Additional Requestor:  Name, Title / Dept.
Additional Requestor:
Name, Title / Dept.

## **Oneida Business Committee Agenda Request**

## 6. Cover Memo:

Describe the purpose, background/history, and action requested:

There are two (2) vacancies on the Oneida Election Board due to resignations. The vacancies are for a term ending in 2021 and the other is for a term ending in 2022.		
According to the Oneida Election Board bylaws §1-5 (c) (2) Unexpired Terms. Vacancies in unexpired terms shall be filled by appointment by the Oneida Business Committee, pursuant to the Boards, Committees and Commissions law, for the balance of the unexpired term.		
Action requested:		
Post two (2) vacancies for the Oneida Election Board.		

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

Public Packet 157 of 178

## **Oneida Business Committee Agenda Request**

Post five (5) vacancies - Oneida Nation School Board

1. Meeting Date Requested: 8 / 12 / 20
2. General Information:  Session:   Open   Executive - See instructions for the applicable laws, then choose one:
A consideration and Many Positions of
Agenda Header: New Business
☐ Accept as Information only
☐ Action - please describe:
Post five (5) vacancies - Oneida Nation School Board
Tost tive (5) vacancies "Official Nation School Board"
3. Supporting Materials
☐ Report ☐ Resolution ☐ Contract
Other:
1. 3.
2.
☐ Business Committee signature required
4. Budget Information
<ul> <li>□ Budgeted - Tribal Contribution</li> <li>□ Budgeted - Grant Funded</li> <li>□ Unbudgeted</li> </ul>
5. Submission
Authorized Sponsor / Liaison: Lisa Summers, Secretary
Primary Requestor/Submitter: Brooke Doxtator, Boards, Committees, and Commissions Supervisor
Your Name, Title / Dept. or Tribal Member
Additional Requestor:
Name, Title / Dept.
Additional Requestor:
Name, Title / Dept.

## **Oneida Business Committee Agenda Request**

## 6. Cover Memo:

Describe the purpose, background/history, and action requested:

There is one (1) vacancy for a term ending 7/31/2022 because we have been unable to fill the position by election or appointment, three (3) vacancies for terms ending 7/31/2020 due to terms expiring and no candidates on the ballot for the 2020 general election, and one (1) vacancy for a term ending 7/31/2021 due to a resignation for a total of five (5) vacancies.
Action requested:
Post five (5) vacancies for the Oneida Nation School Board.

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

Public Packet 159 of 178

## **Oneida Business Committee Agenda Request**

Approve the Community Fund FY-20 Product Request - Oneida Emergency Food Pantry

1. Meeting Date Requested: 08 / 12 / 20

2.	<b>2. General Information:</b> Session:   ☐ Open ☐ Executive - :	See instructions for the applicable laws, then choose one:	
	Agenda Header: New Business		
	<ul><li>Accept as Information only</li></ul>		
	Approve community fund request	for Dasani water donation for the Food Pantry.	
3.	3. Supporting Materials  ☐ Report ☐ Resolution ☐  ☑ Other:  1. Community Fund Request Form	Contract	
	2.	4.	
	☐ Business Committee signature required		
4.	4. Budget Information		
	☐ Budgeted - Tribal Contribution	☐ Budgeted - Grant Funded ☑ Unbudgeted	
5.	5. Submission		
	Authorized Sponsor / Liaison: Debo	rah Thundercloud, General Manager	
		orgensen, GSD Director r Name, Title / Dept. or Tribal Member	
	Additional Requestor:		
	Nan	ne, Title / Dept.	
	Additional Requestor: Nam	ne, Title / Dept.	

## **Oneida Business Committee Agenda Request**

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Describe the purpose, background/history, and action request
--

Approve community fund request for Dasani water donation for the Food Pantry.
(NOTE: prior to Covid-19, this request would go to the Finance Committee for approval to bring to the OBC for final approval. Per Larry, that process is no longer active due to staffing. Therefore, this request is going right to OBC for approval.)

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

# ONEIDA COMMUNITY FUND

**FY20 PRODUCT REQUEST FORM** 

## **Oneida Business Committee Agenda Request**

Approve a limited waiver of sovereign immunity - New Water-Great Lakes Restoration Initiative Grant...

1. Meeting Date Requested: 8 / 12 / 20		
2. General Information:  Session:   Open   Executive - See instructions for the applicable laws, then choose one:		
Agenda Header: New Business		
<ul> <li>☐ Accept as Information only</li> <li>☑ Action - please describe:</li> </ul>		
Approve waiver of sovereign immunity and contract language format with NEW Water for future funding agreements. The funding will be for agricultural best management practices and restoration project implementation on Oneida Nation land to reduce sedimentation and Phosphorus introduction into surface waters.		
3. Supporting Materials  Report Resolution Contract Other:  1.		
2. 4.		
Business Committee signature required  4. Budget Information  Budgeted - Tribal Contribution Budgeted - Grant Funded Unbudgeted		
5. Submission		
Authorized Sponsor / Liaison: Patrick Pelky, Division Director/EHS		
Primary Requestor/Submitter: Sylvia Cornelius, Eco Services Manager Your Name, Title / Dept. or Tribal Member		
Additional Requestor:  Name, Title / Dept.		
Additional Requestor:  Name, Title / Dept.		

## **Oneida Business Committee Agenda Request**

### 6. Cover Memo:

Describe the purpose, background/history, and action requested:

Oneida Environmental contracts with NEW Water to fund phosphorus reducing activities within the Reservation that effect total Phosphorus decrease limits that they must meet. This contract will serve as a template for future funding agreements for projects on Oneida lands that NEW Water is requesting. Buffers and other BMPs such as this will be a primary focus of our Adaptive Management watershed initiative for the next 20+ years. Since these watershed efforts will be used to achieve WPDES permit compliance, it is very important that NEW Water is able to hold the tribe to its commitment to maintain practices over that long period of time. This current agreement under discussion will be used as a template for future contracts for other structural BMPs contracted with Oneida. It is these longer term implications that brings NEW Water to request the waiver of sovereign immunity.

- 1) Save a copy of this form for your records.
- 2) Print this form as a \*.pdf OR print and scan this form in as \*.pdf.
- 3) E-mail this form and all supporting materials in a **SINGLE** \*.pdf file to: BC\_Agenda\_Requests@oneidanation.org

## ONEIDA LAW OFFICE

CONFIDENTIAL: ATTORNEY/CLIENT WORK PRODUCT

TO: Brenda L. Skenandore

Environmental Health & Safety

FROM: James R. Bittorf, Deputy Chief Counsel

James R. Bittorf Digitally signed by James R. Bittorf Date: 2020.05.08 15:35:38 -05'00'

DATE: May 8, 2020

RE: New Water-Great Lakes Restoration Initiative

(GLRI) Grant Program Silver Creek Adaptive Management Cost-Share Agreement Oneida

**Properties** 

Use this number on future correspondence:

2020-0361

<u>Purc</u>	hasing Department Use
	<b>Contract Approved</b>
	Contract Not Approved
***************************************	(see attached explanation)

If you have any questions or comments regarding this review, please call 869-4327.

The attached agreement, contract, policy and/or guaranty has been reviewed by the Oneida Law Office for legal content only. Please note the following:

- ✓ The document is in appropriate legal form. (Execution is a management decision.)
- ✓ This Agreement requires Business Committee approval prior to execution because it contains provisions which waive the sovereign immunity of the Oneida Nation. Specifically, section C.3.(b) authorizes the Green Bay Metropolitan Sewerage District (GBMSD) to "prosecute a proceeding in any court of competent jurisdiction against the Grant Recipient [Oneida Nation], its successors and assigns and/or any other person(s) who have violated, or are attempting or threatening to violate, any of the terms of this Agreement and may enjoin any such violation of breach, and may prosecute any and all remedies permitted GBMSD at law or in equity." In addition, section C.4. allows for arbitration of disputes, and section C.4.(d) provides, "The Oneida Nation specifically waives sovereign immunity and consents to suit in Brown County or Outagamie County Circuit Court solely for the limited purposes of compelling enforcement of the provisions of this Agreement or enforcement of any arbitration award against the Oneida Nation rendered pursuant to this Agreement."
- ✓ In section A.6., the Oneida Nation as Grant Recipient "grants GBMSD and Technical Service Provider (and their respective employees, contractors, agents, representatives and invitees) all reasonable rights of access and entry to the installed [Best Management Practices] on the Property in order to conduct periodic inspections . . ." Similarly, in section C.3.(a), the Nation authorizes GBMSD to "enter upon the [Nation's] Property with respect to which said violation or breach exists and cure such violation or breach, which may include, without limitation, the right to summarily remove (at the expense of the Grant Recipient) any structure, thing or condition that may be or exist on the Property contrary to the intent and meaning of this Agreement." And in section C.3.(c), the Nation authorizes GBSMD, the Technical Service Provider and their employees, contractors,

agents, representatives and invitees "to access and enter the Property, in a reasonable manner and at reasonable times, for the purpose of inspecting the [Best Management Practices] . . . and the Property to determine compliance with this Agreement." These provisions should be approved by the Oneida Land Commission.



COST SHARE AGREEMENT NO. **SC0019** 

# GREAT LAKES RESTORATION INITIATIVE (GLRI) GRANT PROGRAM SILVER CREEK ADAPTIVE MANAGEMENT COST-SHARE AGREEMENT ONEIDA NATION PROPERTIES

AGREEMENT WILL NOT BE RECORDED AGAINST THE REFERENCED PROPERTIES.

This agreement ("Agreement") is made and entered into by and among the Green Bay Metropolitan Sewerage District ("GBMSD") and the Oneida Nation, a federally recognized Indian government and treaty tribe (the "Oneida Nation"), and, if applicable, tenant(s) or licensee(s) of the property (collectively, the "Grant Recipient").

The Property identified below is enrolled in the Great Lakes Restoration Initiative Grant Program. As described in <u>Section D</u> cost share funds will be provided to Grant Recipient in return for the installation, operation, and maintenance of best management practices ("BMPs") designed to be maintained in perpetuity in order to achieve certain water quality standards.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grant Recipient, their respective heirs, successors and assigns, agree and commit to fulfill the terms and conditions of the cost-share arrangement set forth in this Agreement (including all exhibits and addenda that are annexed to and made a part hereof). The BMPs cost, installation schedule, and conditions will also be maintained on file with the GBMSD and the Outagamie County Land Conservation Department (the "Technical Service Provider").

Fields/Properties included in the Agreement									
(names used in Conservation Plans at time of signing Agreement)									
Shaumberg Grandpas Upper Hill 64/65									
Grantor Information									
Issuing Government Unit (Grantor Name):	Grant Award Date:								
U.S. Environmental Protection Agency	February 2015								
GLRI Project Name:	GLRI Grant Number:								
Silver Creek Adaptive Management	00E1450								
For more information regarding this Cost Share	For more information regarding technical								
Program and/or for cost share payment assistance, call or contact:	assistance, call or contact:								
Green Bay Metropolitan Sewerage District	Outagamie County LCD								
Attn: Director of Environmental Programs	3365 W. Brewster Street								
2231 N. Quincy St.	Appleton, Wisconsin 54914								
Green Bay, Wisconsin 54302	Phone: 920-832-5073								
Phone: 920-438-1071									

# **Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement SC0019, Oneida Property**

Landowner/Grant Recipient Informat	ion	
Name(s) of Landowner(s) (Last, First, M.I.)		
Oneida Nation		
Street Address N7323 Water Circle Place, PO Box 365 property location 2600 Freedom RD BLK		
City Oneida	State Wisconsin	Zip Code <b>54155</b>

BMP per Parcel Information			
Unique BMP Id. # & Conservation Plan Description	Parcel Number(s)	Survey Data Description	Lat/Long ~center point M/L
201000057	HB-1291 J16088-32 53.297 AC M/L PRT OF INDIAN CLAIM 124 DESC AS PCL A IN 2250012	PRT INDIAN CLAIMS 124 & 136 IN SECTIONS 3 & 10, T24N-R19E FREEDOM RD & FLORIST DR	44.485008 -88.183247

# Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement SC0019, Oneida Property

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1. The purpose of this Agreement is to address requirements related to adaptive management under Wis. Stat. 283.13(7) and ch. NR 217.18. Each Grant Recipient expressly acknowledges and agrees that GBMSD is entitled to credit for reductions in phosphorous, nitrogen and/or total suspended solids (TSS) that result from the BMPs implemented in connection with this Agreement, including without limitation, any trade credits resulting or arising from or related to the reduction in phosphorous, nitrogen and/or TSS and the right to use such trade credits under Wis. Stat. 283.84.

<b>Acknowledgement of Grant Recipient</b>	- Initial Here:	
removed by the state recipient	minute incide	

- 2. To install BMP(s) according to the installation schedule, and consistent with the standards and specifications, set forth in the "Best Management Practices Plan" set forth above (the "Plan"). Grant Recipient further acknowledges that the "Cost Share Rate" for each BMP listed in the Plan is based upon the maximum cost allowable and that the actual cost-share payment may be less based upon the actual acres and eligible costs incurred in connection with the installation of the BMPs.
- 3. To comply with all applicable laws, regulations, ordinances, rules, orders or requirements of any federal, state or local government, or governmental agency, entity or authority (each a "Law" and, collectively, "Laws") in connection with the performance of responsibilities under this Agreement. Without limiting the foregoing, Grant Recipient shall not discriminate against any contractor engaged in connection with this Agreement because of age, race, religion, color, handicap, gender, physical condition, developmental disability, or national origin.
- 4. To make all payments for which Grant Recipient is obligated under this Agreement, as specified in the Plan. Grant Recipients are responsible for all payments for state or local administrative permit fees and percentage of total cost listed in this Agreement.
- 5. To provide GBMSD with evidence of payment, as applicable, for services, supplies, and practices performed or installed pursuant to the Plan and other provisions of this Agreement. Proof of payment shall be in form reasonably acceptable to GBMSD and may be in the form of a statement or invoice, or receipts or cancelled checks with the related vendor contract. Grant Recipient shall submit a detailed invoice or cost-estimate for any services provided by Grant Recipient.
- 6. To refrain from any actions that may reduce BMP effectiveness or otherwise result in water quality problems. All nutrient management plans must comply with s. ATCP 50.04(3), Wis. Admin. Code. Grant Recipient acknowledges and agrees that the BMP(s) are to be maintained in perpetuity. Grant Recipient grants GBMSD and Technical Service Provider (and their respective employees, contractors, agents, representatives and invitees) all reasonable rights of access and entry to the installed BMPs on the Property in order to conduct periodic inspections of the BMP (whether during installation, operation, maintenance or otherwise).
- 7. To repay cost-share funds immediately, upon demand, if Grant Recipient fails to operate and maintain the BMP(s) according to this Agreement. Repayment shall not be required if the applicable BMP(s) are rendered ineffective due to circumstances beyond the control of Grant Recipient.
- 8. To comply with the performance standards, prohibitions, conservation practices and technical standards under: (i) Wisconsin Statutes s. 281.16, Stats., (ii) plans approved under Wisconsin Statutes ss. 92.14, 92.15 (1985 Stats.), 92.10 and 281.65, Stats., and (iii) the practices necessary to meet the requirements of this Agreement, and to continue such compliance in perpetuity after the term of this Agreement (without further cost-sharing, so long as Grant Recipient originally party to this Agreement has received cost-sharing for compliance at least equal to the cost-sharing required under s. ATCP 50.08, Wis. Admin. Code).

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## Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement SC0019, Oneida Property

## Section B. GBMSD agrees:

- To enter this Agreement only after the GBMSD Board and/or authorized Committee has authorized the costsharing of this project as part of yearly budget process and the U.S. EPA has authorized yearly funding of the GLRI Silver Creek project.
- 2. To reach agreement with certain qualified private agronomists and staff of Brown County, Outagamie County and NRCS to serve as "Technical Service Providers," which Technical Service Providers shall be available to provide technical assistance to Grant Recipients for the design, construction, and installation of cost-shared practice(s) according to applicable standards in ch. ATCP 50, ch. NR 151, ch. NR 243, Wis. Admin. Code and any other county or local ordinances that may apply.
- 3. To provide written notice, when applicable, to inform each Grant Recipient, to the best of GBMSD's knowledge, of the ramifications of a Cost Share Agreement, including future compliance obligations. GBMSD further agrees to ensure that cost-shared practices are being maintained by Grant Recipients as required in this Agreement by having Technical Service Providers perform periodic site checks as needed.
- 4. To use the most cost-effective methods to address the water quality concerns of this project, and apply cost containment procedures, consistent with ch. ATCP 50, Wis. Admin. Code, when estimating and paying for cost-shared practice(s).
- 5. To provide cost-share funds to Grant Recipient, in the amounts specified in this Agreement (and any amendments), upon proof that (i) Grant Recipient has made all payments for which Grant Recipient is responsible under this Agreement, (ii) the BMP(s) are designed and installed according to standards in ch. ATCP 50, Wis. Admin. Code and this Agreement, including compliance with applicable construction site erosion control standards, and (iii) nutrient management plans comply with s. ATCP 50.04(3) Wis. Admin. Code.
- 6. To collect and retain (and require Technical Service Providers to collect and retain) copies along with all cost share-related documents regarding operation and maintenance, proof of certification of design and installation, change orders, receipts and payments, and other referenced materials. Payment records from Grant Recipient to contractors must provide proof of payment in full for all cost-shared practices installed.
- 7. Not to record this Agreement with the Register of Deeds Office for the County in which the Property is located.
- 8. To coordinate with Technical Service Providers to follow eligibility for cost-share funding and required reimbursement procedures to facilitate timely cost share payment(s) to Grant Recipient.

### Section C. General Terms and Conditions of this Agreement

- 1. <u>Conditions</u>. GBMSD's cost-share reimbursement obligations set forth in this Agreement are contingent on GBMSD receiving adequate funding. GBMSD may cancel this Agreement, in whole or in part, at any time upon written notice to Grant Recipient due to non-availability of program funds. In addition, this Agreement may be terminated upon written notice to Grant Recipient if, prior to installation of the BMP(s), GBMSD determines that due to a material change in circumstances the proposed practices will not provide cost-effective water quality benefits.
- Amendment. This Agreement may be modified or amended only by an agreement signed by the then-owner
  of the Property and GBMSD. For any changes in practice components or costs, GBMSD will determine eligibility
  and whether to approve such changes.
- 3. Enforcement.

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## Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement SC0019, Oneida Property

(a) <u>Self-Help Remedies for Breach</u>. Violation or breach of any provision(s) of this Agreement will entitle GBMSD the right to enter upon the Property with respect to which said violation or breach exists and cure such violation or breach, which may include, without limitation, the right to summarily remove (at the expense of the Grant Recipient) any structure, thing or condition that may be or exist on the Property contrary to the intent and meaning of this Agreement.

- (b) <u>Judicial Remedies for Breach</u>. GBMSD may prosecute a proceeding in any court of competent jurisdiction against the Grant Recipient, its successors and assigns and/or any other person(s) who have violated, or are attempting or threatening to violate, any of the terms of this Agreement and may enjoin any such violation or breach, and may prosecute any and all remedies permitted GBMSD at law or in equity. This enforcement right shall include, but not be limited to, the right to bring an action (1) to enforce the terms of this Agreement, (2) to require the installation, maintenance, repair, restoration and/or replacement of the BMP(s) on the Property, or (3) to enjoin non-compliance by appropriate injunctive relief; or any combination of the these remedies.
- (c) Entry and Inspection. GBMSD reserves the right for itself, the Technical Service Provider and/or their respective employees, contractors, agents, representatives and invitees, to access and enter the Property, in a reasonable manner and at reasonable times, for the purpose of inspecting the BMPs (whether during installation, operation, maintenance or otherwise) and the Property to determine compliance with terms of this Agreement.

### 4. Dispute Resolution.

- (a) <u>Negotiation</u>. If either party believes the other has failed to comply with the requirements of this Agreement, or if any controversy, claim or dispute arises out of or relates to this Agreement (a "Dispute"), then either party may initiate negotiation by serving a written notice on the other identifying the specific provision or provisions of the Agreement in dispute and specifying in detail the factual basis for any alleged non-compliance and/or the interpretation of the provision of the Agreement. Within thirty (30) days of service of such notice, representatives designated by each party shall meet in an effort to resolve the Dispute through negotiation.
- (b) <u>Mediation</u>. If either party believes the other has failed to comply with the requirements set forth in this Agreement, or if there is a Dispute over the proper interpretation of any provision of this Agreement, the parties may agree in writing to settle the Dispute by non-binding mediation.
- (c) <u>Arbitration</u>. If a Dispute is not resolved within ninety (90) days of service of notice as provided for in Section C.4.(a), above, either party may serve on the other a written demand for arbitration, and the dispute shall thereafter be resolved by arbitration which shall be conducted in conformance with the rules set forth below and such other rules as the parties may in writing agree. The demand for arbitration shall be in writing, shall set forth a short statement of the factual and legal basis for the claim and be served on the other party by either certified mail or personal service.
  - (i) <u>Arbitration Panel</u>. Each party shall appoint one (1) arbitrator. The two party-appointed arbitrators shall then appoint a third arbitrator, and the three (3) arbitrators shall constitute the panel.
  - (ii) <u>Proceedings and Award</u>. All arbitration proceedings shall be confidential, except as may be necessary for judicial enforcement of this dispute resolution provision or for confirmation of and arbitration award. The arbitrators may conduct such evidentiary or other hearings as they deem appropriate. The arbitrators shall base their decision and award on Wisconsin law and shall have the authority to award any remedy or relief that a court of competent jurisdiction could order, including specific performance and injunctive relief. The arbitrator's decision and award shall be in writing. In

# Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement SC0019, Oneida Property

rendering such decision and award, the arbitrator shall not add to, subtract or otherwise amend the provisions of this Agreement.

- (iii) <u>Cost of Arbitration</u>. The parties share the cost of arbitration (i.e. arbitrator's compensation, filing fees and other administrative fees) with one-half (1/2) of the cost charged to GBMSD and one-half (1/2) of the cost charged to the Grant Recipient. Each party shall bear its own expenses, including but not limited to its attorney's fees. In any action to enforce, modify or set aside the arbitrator's decision and award, the prevailing party shall be entitled to recovery of its costs, including reasonable attorney's fees approved by the court.
- (d) <u>Limited Waiver of Immunity</u>. The Oneida Nation specifically waives sovereign immunity and consents to suit in Brown County Circuit Court or Outagamie County Circuit Court solely for the limited purposes of compelling enforcement of the provisions of this Agreement or enforcement of any arbitration award against the Oneida Nation rendered pursuant to this Agreement. Nothing in this Agreement shall be construed as granting the Oneida Nation immunity from enforcement actions brought by the United States to enforce the terms of this Agreement.
- 5. <u>Effective Date</u>; <u>Successors and Assigns</u>. The covenants and restrictions provided for in this Agreement shall be effective upon GBMSD Signature and shall remain in full force and effect thereafter in perpetuity. This Agreement shall apply to, inure to the benefit of, and be binding upon and enforceable against the parties hereto and their respective successors and assigns.
- 6. Representations and Warranties. Each Grant Recipient represents and warrants to GBMSD that: (i) if the landowner, Grant Recipient has good and marketable title in fee simple to the Property, and has all right, title and authority to enter into this Agreement; (ii) if a tenant, Grant Recipient has good and marketable leasehold interest in and to the Property, and has all right, title and authority to enter into this Agreement; and (ii) Grant Recipient has not granted any other party any right, title or interest in the Property that would violate, conflict with or result in a default under this Agreement or any applicable Law.
- 7. <u>Miscellaneous</u>. This Agreement and any exhibits or addenda hereto constitute the entire agreement among the parties with respect to the subject matter of this Agreement and supersede all prior agreements and understandings, both oral and written, among the parties with respect to the subject matter of this Agreement. This Agreement may be executed in multiple counterparts which, when taken together, shall constitute one and the same document. This Agreement may be executed by pdf. or facsimile signature. If any provision of this Agreement is held to be invalid by any court, the invalidity of such provision shall not affect the remaining provisions of this Agreement, and they shall continue in full force and effect. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

[Signature pages follow.]

# Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement SC0019, Oneida Property

Section D BMP P	lan: Practices, Costs, Inst	tallation, App	provals, and Payment	ts											
Silver Creek One	ida Cost Share Agreem	ent:	SC0019	]											
The parties agree to the	practices, specification, eligible	costs, cost sha	re amounts, and installat	ion schedule set for	th bel	ow.									
Name of Person Prepari	ng Technical Design: Nikki Raim	er, Representir	ig: NEW Water												
Name of	Cost Share Recipient:		ONEIDA NATION		1										
By signing on the Signat	ure Page of this CSA the Landow	ner agrees:	I	.,,m.c.aba	4										
	es, specifications, eligible costs, o														
	t share funds in exchange for the														
	cific operator/grower of the req MP Plan will be updated and fin				nd, to	notify the OCLCI	and GBMSD if the	ere is a change in o	perator/grower.						
1	e amounts may be more or less														
	e amount may be more or less b														
Note: the final cost shar	e amount may be more or less b	ased on the ac	tual cost of the BIMP inst	alled		No. of the latest of the lates						Date Init	ial Estimate:	4/28/	/2020
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Onique I on map)	Projec	NRCS	BMP,	l tin	Units	Install	Initial Cost (\$) Estimate	NRCS Cos Share (\$) Estimate	GBMSD Estimat	FINAL	TOTAL Final Cost (\$)	NRCS Final Cost Share	GBMSD Fin Cost Share	Source	GBMSD Final Approval (date)
_ =	it Na	Code	field	ated		Dat	ate	ete (\$)	76	111	(\$) LEI	Final	SD F Shar	e of	oval
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						TOTAL	\$150.00	\$0.00	\$150.00				\$0.00		
	The state of the state of the state of		STATE OF STATE		No.		Estimate	d GBMSD							
							Cost	Share	\$150.00			FINAL	SBMSD Cost Share		
Invoice#	Vendor		Date	Service		Cost	Date GBMSD approved	Date OC pd	NRCS share	GBMSD share			Notes		
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**Public Packet** 

# Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement – SC0019, Oneida Property

SIGNATURE PAGE – LAND	OWNER			
Signed this	day of	, 20	_	
Signature of Landowner		Signature of Landowner	•	
Typed Name		Typed Name		
NOTARY				
State of Wisconsin	)	•		
	County )			
This instrument was ackno	wledged before me on			_[Date]
by		[Name of Landov	vner/Represen	tative]
as		[Representative's	position or	type of
authority, if applicable] f	or		[Name of	entity on
behalf of whom instrumen	t was executed, if applicab	le].		
Name of Notary Public:				
Notary Public, State of Wis	consin			
My commission expires:				
Signature of Notary Public				

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Great Lakes Restoration Initiative (GLRI) Grant Program
Silver Creek Oneida Cost Share Agreement – SC0019, Oneida Property

SIGNATURE PAGE – GF	RANT RECIPIENT (IF NOT LAND	OWNER)	
If Landowner is also th and do <u>not</u> complete t	ne Grant Recipient, check (X) tl his Signature Page:	ne following box	
Signed this	day of	, 20	_
Signature of Grant Rec	ipient	Signature of Grant Reci	pient
Typed Name		Typed Name	
NOTARY			
State of Wisconsin	)		
	County )		
This instrument was ac	knowledged before me on		[Date]
by		[Name of Grant Re	ecipient/Representative]
as		[Representative's	position or type of
authority, if applicable	e] for		[Name of entity on
behalf of whom instrun	nent was executed, if applicable	e].	
Name of Notary Public:			
Notary Public, State of My commission expires	Wisconsin s:		
Signature of Notary Pul	alia		
Digitature of Notary Pul	JIIC		

**Public Packet** 

# Great Lakes Restoration Initiative (GLRI) Grant Program Silver Creek Oneida Cost Share Agreement – SC0019, Oneida Property

SIGNATURE PAGE - GR	EEN BAY METROPOLITAN SEV	VERAGE DISTRICT	
Signed this	day of	, 20	
Signature of Authorize	d Representative of Green Bay	/ Metropolitan Sewerage Distr	ict
Name:			
Title:			
NOTARY			
State of Wisconsin			
	)		
	County )		
This instrument was ack	nowledged before me on		[Date]
by		[Name of GBMSD	Representative]
as		[GBMSD Representative	's title or position ] for
the Green Bay Metropo	litan Sewerage District.		
Name of Notary Public:			
Notary Public, State of V			
My commission expires:			
Ciaratura of Nata - D. I.	1:		
Signature of Notary Pub	IIC		
14400770.3			

## Tilth Agronomy Group, Inc

W7684 Hillwood Ct Hortonville, WI 54944 920-779-9773 jmrusch\_99@yahoo.com

## INVOICE

**BILL TO** 

Brenda Skenandore P.O. Box 365 N7332 Water Circle Place Oneida, WI 54155 **INVOICE # 8614** 

DATE 03/08/2020
DUE DATE 03/08/2020
TERMS Due on receipt

## P.O. NUMBER

PDM-14379-17-PO

DATE	DESCRIPTION	QTY	RATE	AMOUNT
03/08/2020	Crop consulting Services consulting services - Oneida Nation Farms	5,789	2.00	11,578.00
03/08/2020	Crop consulting Services consulting services - Tsyunhehkwa	311	2.00	622.00
03/08/2020	Crop consulting Services consulting services - White Corn Coop	31	2.00	62.00
03/08/2020	Crop consulting Services consulting services - Dutch/Ash Watershed - Tilth	1,259	2.00	2,518.00
03/08/2020	Crop consulting Services consulting services - Dutch/Ash Watershed - Non Tilth	636	3.00	1,908.00
03/08/2020	Crop consulting Services consulting services - Dutch/Ash Watershed - Non Tilth	432	3.50	1,512.00
03/08/2020	Crop consulting Services consulting services - Duck - Tilth	330	2.50	825.00
03/08/2020	Crop consulting Services consulting services - NMP Oneida Nation Farms	5,789	3.25	18,814.25

BALANCE DUE

\$37,839.25

OK To Pay PDM- 14379-17-PO Public Packet 177 of 178

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